



भारत का राजपत्र The Gazette of India

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सं० 3]
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नई दिल्ली, शनिवार, जनवरी 16, 1982/पौष 26, 1903
NEW DELHI, SATURDAY, JANUARY 16, 1982/PAUSA 26, 1903

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-section (II)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय
(कार्मिक और प्रशासनिक सुधार विभाग)
मुद्रित-पत्र
नई दिल्ली, 28 दिसम्बर, 1981

का० आ० 119.—भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 15 अगस्त, 1981 पृष्ठ 2516 पर प्रकाशित भारत सरकार के गृह मंत्रालय (कार्मिक और प्रशासनिक सुधार विभाग) की अधिसूचना सं० का० आ० 2160 तारीख 30 जुलाई, 1981 में, नियम 4 की पैरि 22 में "संवर्तित का तारीख" के लिए "पुनर्नियोजन की तारीख" पढ़ें।

[संख्या 6(1)-पेंशन(ए)/80]
एस० पी० मदान, निदेशक (पेंशन)

MINISTRY OF HOME AFFAIRS
(Department of Personnel and Administrative Reforms)

CORRIGENDUM

New Delhi, the 28th December, 1981

S.O. 119.—In the notification of Government of India, in the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) No. S.O. 2160, dated the 30th July, 1981, published at pages 2516-17 of the Gazette of India, Part II, section 3, sub-section (ii), dated the 15th August, 1981, at pages 2517, in line 20 of rule 4, for "date of retirement" read "date of re-employment."

[No. 6(1)-Pen(A)/80]
S. P. MADAN, Director

वित्त मंत्रालय
(राजस्व विभाग)
आदेश
नई दिल्ली, 24 दिसम्बर, 1981
स्टाम्प

का० आ० 120.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उन शुल्क को माफ करती है जो इन्डस्ट्रियल क्रेडिट एंड इन्वेस्टमेंट कारपोरेशन अ/क इण्डिया लिमिटेड द्वारा समय-समय पर ऋण-पत्रों के रूप में जारी किए जाने वाले बन्ध पत्रों पर, उक्त अधिनियम के अन्वय प्रभाव है।

[सं० 28/79-स्टाम्प-का० सं० 33/27/79-बि०क०]
एस० आर० शर्मा, उप सचिव

MINISTRY OF FINANCE
(Department of Revenue)

ORDER

New Delhi, the 24th December, 1981

STAMPS

S.O. 120.—In exercise of the powers conferred by clause (a) of sub-Section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty chargeable under the said Act in respect of bonds in the form of debentures to be issued from time to time by the Industrial Credit and Investment Corporation of India Limited.

[No. 28/81-Stamp-F. No. 33/29/79-ST]
S. R. SHARMA, Dy. Secy

(व्यय विभाग)

महालेखा नियंत्रक

नई दिल्ली, 26 दिसम्बर, 1981

का० भा० 121.—राष्ट्रपति, संविधान के अनुच्छेद 258 के खण्ड

(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित सारणी के स्तम्भ 2 में विनिर्दिष्ट राज्य सरकारों को उनकी मम्मति से 1 जनवरी, 1982 से, संविधान के अनुच्छेद 150 के अधीन केन्द्रीय सरकार के उन कृत्यों को, जहाँ तक उन कृत्यों का संबंध सम्बद्ध राज्य में विभिन्न मुख्य और सहाय शीषों के अधीन उप शीषों और व्यौरवार लेखा शीषों खोलने से है, उक्त सारणी के स्तम्भ 3 में विनिर्दिष्ट शक्तों के अधीन रखने हुए, सौंपते हैं :—

सारणी

क्रम संख्या	राज्य	शर्तें
1	2	3
1. आंध्र प्रदेश	यह प्रत्यायोजन निम्नलिखित शर्तों के अधीन रहते हुए है, अर्थात् :—	
2. असम		
3. बिहार	(1) अनुच्छेद 150 के अधीन केन्द्रीय सरकार द्वारा समय-समय पर जारी किए गए निदेश	
4. गुजरात	(2) केन्द्रीय सरकार द्वारा संबंधित राज्य सरकार को इन प्रकार प्रत्यायोजित कृत्यों के प्रयोग के संबंध में उक्त राज्य सरकार द्वारा उपगत किसी अतिरिक्त प्रशासन लागत से संबंधित किसी राशि का संवाय नहीं किया जाएगा।	
5. हरियाणा		
6. कर्नाटक		
7. केरल		
8. मध्य प्रदेश		
9. मेघालय		
10. नागालैण्ड		
11. उत्तराखण्ड		
12. पंजाब		
13. राजस्थान		
14. तमिलनाडु		
15. त्रिपुरा		
16. उत्तर प्रदेश		
17. पश्चिम बंगाल		
18. हिमाचल प्रदेश		

[सं० एस० 11036/1/78/टीए/भाग-1/3836]

तारा बाई एम० कुट्टी, संयुक्त महालेखा नियंत्रक

(Department of Expenditure)

Controller General of Accounts

New Delhi, the 26th December, 1981

S.O. 121—In exercise of the powers conferred by Clause (1) of article 258 of the Constitution, the President hereby entrusts, with their consent, to the Governments of the States specified in Column 2, of the Table below, with effect from 1st January, 1982 the functions of the Central Government under Article 150 of the Constitution in so far as such functions relate to the opening of Sub-heads and Detailed heads of account under the various Major and Minor heads of accounts in the State concerned, subject to the conditions specified in Column 3 of the said table.

TABLE

Sl. No.	States	Conditions
1	2	3
1. Andhra Pradesh		This delegation is subject to the following conditions, namely:—
2. Assam		(1) The directions under Article
3. Bihar		150 issued by the Central Gov-
4. Gujarat		

2

3

5. Haryana	ernment from time to time.
6. Karnataka	(2) No sums shall be paid by
7. Kerala	the Central Government to
8. Madhya Pradesh	the State Government concern-
9. Meghalaya	ed in respect of any extra
10. Nagaland	costs of administration incur-
11. Orissa	red by the State in connection
12. Punjab	with the exercise of the
13. Rajasthan	functions so delegated.
14. Tamil Nadu	
15. Tripura	
16. Uttar Pradesh	
17. West Bengal	
18. Himachal Pradesh	

[No. S. 11036/1/78/TA/Part I/3836]

TARA BAI S. KUTTY, Jt. Controller General & A/c.

(आर्थिक कार्य विभाग)

नई दिल्ली, 21 दिसम्बर, 1981

का० भा० 122.—केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और प्रवीण) नियमावली 1965 के नियम 9 के उप नियम (2), नियम 12 के उप नियम (2) के खण्ड (ख) और नियम 24 के, उप नियम (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रपति, वित्त मंत्रालय (आर्थिक कार्य विभाग), भारत सरकार के 28 फरवरी, 1957 के आदेश संख्या का० नि० भा० 627 में निम्नलिखित संशोधन करते हैं, अर्थात् :—

आदेश की अनुसूची में :—

(1) भाग II और III में शब्दों "मास्टर" और "टंकसाह मास्टर" को जहाँ कहीं वे आएँ "सामान्य प्रबन्धक" शब्दों द्वारा प्रतिस्थापित किया जाएगा और शब्दों उप टंकसाह मास्टर को जहाँ कहीं वे आएँ, "वरिष्ठ कार्य प्रबन्धक" शब्दों द्वारा प्रतिस्थापित किया जाएगा ;

(2) भाग II में कालम 1 में विनिर्दिष्ट परब विभाग और जारी शोधन परियोजना, बम्बई और कलकत्ता, भारत सरकार टंकसाह, अलीपुर और भारत सरकार टंकसाह, बम्बई और हैदराबाद के पदों के सामने कालम 5 में शब्दों "संयुक्त सचिवों, आर्थिक कार्य विभाग" को जहाँ कहीं वे आएँ, "महानिदेशक मुद्रा और निष्का निर्माण आर्थिक कार्य विभाग" शब्दों और कोष्ठक द्वारा प्रतिस्थापित किया जाएगा ;

(3) भाग III में, कालम 1 में विनिर्दिष्ट भारत सरकार टंकसाह, अलीपुर और बम्बई के पदों के सामने शब्दों "संयुक्त सचिव" का शब्दों और कोष्ठक "महानिदेशक मुद्रा और निष्का निर्माण" (आर्थिक कार्य विभाग) द्वारा प्रतिस्थापित किया जाएगा।

[संख्या एफ० 14/68/81-कोहन]

सी० जी० पथरोज, अवर सचिव

(Department of Economic Affairs)

New Delhi, the 21st December, 1981

S.O. 122.—In exercise of the powers conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12, and sub-rule (1) of rule 24 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following amendments in the Order of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. S.R.O. 627, dated the 28th February, 1957, namely :—

In the Schedule to the said Order :—

(1) In parts II and III, for the words "Master" and "Mint Master", wherever they occur, the words "General Manager"

shall be substituted; and for the words "Deputy Mint Master" wherever they occur, the words "Senior Works Manager" shall be substituted ;

(2) In part II, against the posts in Assay Department and Silver Refinery Project, Bombay and Calcutta, India Government Mint, Alipore and India Government Mint, Bombay and Hyderabad, specified in column 1, in column 5, for the words "Joint Secretary, Department of Economic Affairs", wherever they occur, the words and brackets "Director General (Currency and Coinage), Department of Economic Affairs" shall be substituted ;

(3) In part III, against the posts in India Government Mints, at Alipore and Bombay, specified in column 1, in column 5, for the words "Joint Secretary" the words and brackets "Director General (Currency and Coinage) Department of Economic Affairs" shall be substituted.

[No. F. 14/68/81-Coin]

C. G. PATHROSE, Under Secy.

(बैंकिंग प्रभाग)

नई दिल्ली, 28 दिसम्बर, 1981

का० प्रा० 123.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबंध) स्कीम, 1980 के खण्ड 8 के उपखण्ड (1) के साथ पठित खण्ड 3 के उपखण्ड (क) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एन.व्ही.आर. श्री मोहिनंदर सिंह को 2 जनवरी, 1982 से प्रारम्भ होकर 9 अक्टूबर, 1984 को समाप्त होने वाली अवधि के लिए पंजाब एण्ड सिंध बैंक के प्रबन्ध निदेशक के रूप में नियुक्त करती है।

[सं० एक० 9/43/81-डी० प्रो० I(1)]

(Banking Division)

New Delhi, the 28th December, 1981

S.O. 123.—In pursuance of sub-clause (a) of clause 3 read with sub-clause (1) of clause 8, of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri. Mohinder Singh as the Managing Director of Punjab and Sind Bank for the period commencing on 2nd January, 1982 and ending with 9th October, 1984.

[No. F. 9/43/81-BO.I(1)]

का० प्रा० 124.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबंध) स्कीम, 1980 के खण्ड 7 के साथ पठित खण्ड 5 के उप खण्ड (1) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एन.व्ही.आर. श्री मोहिनंदर सिंह को, जिन्हें 2 जनवरी, 1982 से पंजाब एण्ड सिंध बैंक का प्रबन्ध निदेशक नियुक्त किया गया है, उसी तारीख से पंजाब एण्ड सिंध बैंक के निदेशक मण्डल के अध्यक्ष के रूप में नियुक्त करती है।

[सं० एक० 9/43/81-बी० प्रो० I (2)]

ब० ब० मीरचन्दानी, उप सचिव

S.O. 124.—In pursuance of sub-clause (1) of clause 5, read with clause 7, of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government after consultation with the Reserve Bank of India, hereby appoints Shri Mohinder Singh, who has been appointed as the Managing Director of Punjab and Sind Bank with effect from 2nd January, 1982, to be the Chairman of the Board of Directors of the Punjab and Sind Bank with effect from the same date.

[No. F. 9/43/81-BO. I(2)]

C. W. MIRCHANDANI, Dy. Secy.

केन्द्रीय उत्पाद शुल्क और सीमा शुल्क बोर्ड

नई दिल्ली, 16 जनवरी, 1982

सं० 3/82--सीमाशुल्क

का० प्रा० 125.—केन्द्रीय उत्पाद शुल्क और सीमाशुल्क बोर्ड, सीमाशुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तमिलनाडु राज्य में जिला सेलम में सेलम तालुक के मारामंगलपु पत्ती को भाण्डागार स्टेशन के रूप में घोषित करता है।

[का० सं० 473/48/81-सीमाशुल्क-7]

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 16th January, 1982

No. 3/82-Customs

S.O. 125.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962) the Central Board of Excise and Customs hereby declares Maramangalathupatti of Salem Taluk in District Salem, in the State of Tamil Nadu, to be a warehousing station.

[F.No. 473/48/81-CUS.VII]

सं० 4/82 सीमाशुल्क

का० प्रा० 126.—केन्द्रीय उत्पाद शुल्क और सीमा शुल्क बोर्ड, सीमाशुल्क अधिनियम 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आन्ध्र प्रदेश राज्य में जिला विशाखापटनम् में पोरुपलेम को भाण्डागार स्टेशन के रूप में घोषित करते हैं।

[का० सं० 473/152/81-सीमाशुल्क-7]

No. 4/82-Customs

S.O. 126. In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declares Porulapalem in Viskhapatnam District, in the State of Andhra Pradesh, to be a warehousing station.

[F.No. 473/152/81-Cus-VII]

सं० 5/82-सीमाशुल्क

का० प्रा० 127.—केन्द्रीय उत्पाद शुल्क और सीमाशुल्क बोर्ड, सीमाशुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महाराष्ट्र राज्य में अहमदनगर को भाण्डागार स्टेशन के रूप में घोषित करता है।

[का० सं० 473/146/80-सी० शु०-7]

एन० के० कपूर, अवर सचिव

No. 5/82-Customs

S.O. 127.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declares Ahmednagar, in the State of Maharashtra, to be a warehousing station.

[F.No. 473/146/80-CUS. VII]

N. K. KAPUR, Under Secy.

वाणिज्य मंत्रालय

मुख्य निर्यातक, आयात-निर्यात का कार्यालय

प्रावेश

नई दिल्ली, 31 दिसम्बर, 1981

का० प्रा० 128.—सर्वश्री मिश्रा धामु निगम लि०, हैदराबाद को मुक्त विदेशी मुद्रा के अन्तर्गत संग्रह शुल्क के अनुसार उपकरणों एवं मशीनरी के आयात के लिए 5,22,04,031 रुपये (केवल पांच करोड़, बाईस लाख, चार हजार, इकतीस हजार) का एक आयात लाइसेंस सं० आई/सी/2032129/सी/एक्स एक्स/61/एच

दिनांक 14-12-1976 प्रदान किया गया था। फर्म ने उपर्युक्त लाइसेंस की सीमा-शुल्क प्रयोजन प्रति की अनुलिपि प्रति जारी करने के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल सीमा-शुल्क प्रयोजन प्रति खो गई अथवा अस्थायित्व हो गई है। आगे यह बताया गया है कि लाइसेंस की सीमा-शुल्क प्रयोजन प्रति बम्बई के सीमा शुल्क प्राधिकारी के पास पंजीकृत थी और सीमा शुल्क प्रयोजन प्रति का आंशिक रूप से उपयोग हो चुका है।

2. अपने तर्क के समर्थन में लाइसेंसधारी ने हैदराबाद के नोटरी पब्लिक के सम्मुख विधिवत् साक्ष्यार्कित स्टाम्प कागज पर एक शपथ-पत्र दाखिल किया है। तबनुसार, मैं सन्तुष्ट हूँ कि आयात लाइसेंस सं० आई/सी/2032129/मि/एक्सएन/61-एच दिनांक 14-12-1976 की मूल सीमा-शुल्क प्रयोजन प्रति फर्म से खो गई अथवा अस्थायित्व हो गई है। यथासंशोधित आयात (नियंत्रण) अधिनियम, 1955 दिनांक 7-12-1955 के उपखंड 9 (गग) के अन्तर्गत प्रदत्त अधिकारों का प्रयोग करते हुए सर्व-श्री मिश्रा धातु निगम को जारी की गई उक्त मूलसीमा-शुल्क प्रति सं० आई/सी/2032129 दिनांक 14-12-1976 एनक्वारा रद्द की जाती है।

3. उक्त लाइसेंस की अनुलिपि सीमा-शुल्क प्रयोजन प्रति पार्टी को असल से जारी की जा रही है।

[सं० सीजी 2/डीईएफ/56/76-77/1091]

जी० एस० ग्रेवाल, उप मुख्य नियंत्रक, आयात-निर्यात

MINISTRY OF COMMERCE
Office of the Chief Controller of Imports and Exports

ORDER

New Delhi, the 31st December, 1981

S.O. 128.—M/s. Mishra Dhatu Nigam, Ltd. Hyderabad were granted an Import Licence No. 1/C/2032129/C/XX/61/H dated 14-12-1976 for Rs. 5,22,04,031 (Rupees five crores twenty two lakhs four thousand and thirty one only) for import of equipments and machinery as per list attached under Free Foreign Exchange. The firm has applied for issue of Duplicate Copy of Customs purposes copy of the above mentioned licence on the ground that the original Customs purposes copy of the licence has been lost or misplaced. It has further been stated that the Customs Purposes copy of the licence was registered with Customs Authority, Bombay and the Customs purpose copy has been partially utilised.

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public Hyderabad. I am accordingly satisfied that the original Customs purpose copy of import licence No. 1/C/2032129/C/XX/61/H dated 14-12-1976 has been lost or misplaced by the firm. In exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended the said original Customs copy No. 1/C/2032129 dated 14-12-76 issued to M/s. Mishra Dhatu Nigam is hereby cancelled.

3. A duplicate Customs purposes copy of the said licence is being issued to the party separately.

[No. CGII/DEF/56/76-77/1091]

G. S. GREWAL, Dy. Chief Controller of Imports and Exports

नागरिक पूर्ति मंत्रालय

भारतीय मानक संस्था

नई दिल्ली, 23 दिसम्बर, 1981

क्र०आ० 129.—समय समय पर संशोधित भारतीय मानक संस्था (प्रमाणन चिन्ह) विनियम 1955 के विनियम 3 के उपविनियम (4) के अधीन प्राप्त अधिकारों के अनुसार नीचे अनुसूची में जिस IS : 4984-1978 के व्योरे दिए गए हैं, उसके उपबन्धों में मानक चिन्ह के उपयोग में गति पाने के उद्देश्य से परीक्षारमक रूप में संशोधन किए गए हैं। इन संशोधनों के द्वारा भारतीय मानक के अनुसूच बने माल की गुणता पर कोई प्रभाव नहीं पड़ेगा। यह अधिसूचना तुरन्त ही लागू हो जाएगी।

अनुसूची

क्रम भारतीय मानक की संख्या और शीर्षक जिसके उपबन्धों में संशोधन किया गया है।

उपबन्धों में किए गए संशोधनों का विवरण

1. IS : 4984-1978 नल से बर्तनों में पानी भरने, गंदे पानी के विकास और शीघ्रता से मल निष्काव के लिए उच्च घनत्व वाले गोली-हवाहलीन पाइपों की विशिष्टि (हमरा पुनरीक्षण)

(पृष्ठ 4, खंड 3.1 पहला वाक्य)---

“एच डी पी ई 52 पी बी” के स्थान पर “एच डी पी ई 42 पी बी” कर लीजिए

(पृष्ठ 6, सारणी 1, क्रम संख्या, IX स्तम्भ 12)---“12.1” के स्थान पर “12.4” कर लीजिए।

(पृष्ठ 12, अनुबन्ध “ए” खंड-ए-4.3)---अंतिम वाक्य में वर्तमान के स्थान पर निम्नलिखित कर लीजिए :

“परीक्षण दाब (पी) सारणी 1 में दी गई न्यूनतम मापों और सारणी 2 में दिए प्रेरित प्रतिबल माप से निम्नलिखित रूप में हिमांक लगाकर निकाला जाएगा।”

[संख्या सी एम डी/13 : 4]

ए०के० गुप्ता, महानिदेशक

MINISTRY OF CIVIL SUPPLIES

INDIAN STANDARDS INSTITUTION

New Delhi, the 23rd December, 1981

S.O. 129.—In exercise of the powers conferred on me under sub-regulation (4) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations 1955 as amended from time to time modifications to the provisions of IS : 4984-1978, details of which are mentioned in the Schedule given hereafter have tentatively been made with a view to expediting the use of the Standard Mark without in any way affecting the quality of goods covered by the relevant standard. This notification shall come into force with immediate effect.

SCHEDULE

Sl. No. and Title of Indian Standard the provisions of which have been modified	Particulars of the Modifications made to the provisions
1. IS : 4984—1978 Specification for high density polyethylene pipes for potable water supplies sewage and industrial effluents (second revision)	(Page 4 clause 3.1 first sentence)—Substitute “HDPE 42 PB” For “HDPE 52 PB” (Page 6 Table 1 Sl. No. ix col 12)—Substitute “12.4” For “12.1” (Page 12 Appendix A clause A-4.3)—Substitute the following for the existing in the last sentence: “The test pressure (p) shall be calculated as follows from the minimum dimensions given in table 1 and the induced stress value given in Table 2.”

[No. CMD/13 : 4]

A. K. GUPTA, Director General

पेट्रोलियम, रसायन और उर्वरक मंत्रालय

(पेट्रोलियम विभाग)

नई दिल्ली, 23 दिसम्बर, 1981

क्र० आ० 130.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम, रसायन और उर्वरक मंत्रालय (पेट्रोलियम विभाग) की अधिसूचना क्र० आ० सं० 1737 तारीख 29-5-81 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सभ्य प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

कलोल-83 से सी० टी० एफ० तक पाइप लाइन बिछाने के लिए।
राज्य : गुजरात जिला और तालुका : गांधीनगर

1	2	3	4	5
	89/2 ए	0	03	52
	90	0	11	25
	88/9	0	01	25
	74/1	0	03	50
	75/2	0	04	27
	78/1	0	01	77
	74/2	0	07	50
	76/1	0	02	00
	76/2	0	01	50
	78/2 बी	0	08	70
	78/2 ए	0	01	80
	79	0	01	20
	80	0	05	47
	92/2	0	09	30
	21/2	0	09	00
	21/1	0	03	15
	19/1	0	07	50
	19/5	0	09	00
	1372/2	0	01	00
	1373/3 सी	0	07	50
	1373/2	0	07	20
	1373/1 बी	0	07	35
	1373/1 ए	0	02	92
	1375/1	0	13	50
	1375/2	0	06	45
	1375/6	0	03	45

[सं० 12016/18/81-प्रोटो]

MINISTRY OF PETROLEUM, CHEMICALS AND
FERTILIZER

(Department of Petroleum)

New Delhi, the 23rd December, 1981

S.O. 130.—Whereas by a notification of the Government of India in the Ministry of Petroleum, Chemicals and Fertilizer, (Department of Petroleum), S.O. 1737 dated 29-5-81 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

गांव	सर्वे नं०	हेक्टेयर एअरर्ई	सेन्टीयर	
1	2	3	4	5
सेरथा	100/2 सी	0	03	45
	102/3	0	04	57
	102/4	0	05	55
	89/1	0	03	60
	89/2 सी	0	05	30

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, submitted report to the Government ;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE FROM KOLOL—83 to C. T. F.

State : Gujarat	District & Taluka : Gandhinagar			
Village	Survey No.	Hec-tare	Are	Centiare
Sertha	100/2 C	0	03	45
	102/3	0	04	57
	102/4	0	05	55
	89/1	0	03	60
	89/2 C	0	05	30
	89/2 A	0	03	52
	90	0	11	25
	88/9	0	01	25
	74/1	0	03	50
	75/2	0	04	27
	78/1	0	01	77
	74/2	0	07	50
	76/1	0	02	00
	76/2	0	01	50
	78/2 B	0	08	70
	78/2 A	0	01	80
	79	0	01	20
	80	0	05	47
	92/2	0	09	80
	21/2	0	09	00
	21/1	0	03	15
	19/1	0	07	50
	19/5	0	09	00
	1372/2	0	01	00
	1373/3 C	0	07	50
	1373/2	0	07	20
	1373/1 B	0	07	35
	1373/1 A	0	02	92
	1375/1	0	13	50
	1375/2	0	06	45
	1375/6	0	03	45

[No. 12016/18/81-ProJ].

का० ख० 131.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कूप नं० 81 से बूथ नं० 2 तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसा लाइन को बिछाने के प्रयोजन के लिये एतद्वाक्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

अर्थात् कि उक्त भूमि में हिनबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप समझ प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदरा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

कूप नं० 81 से बूथ नं० 21 तक पाइपलाइन बिछाने के लिए
राज्य : गुजरात जिला : भरुच तालुका : धन्वेस्वर

गांव	ब्लाक नं०	हेक्टेयर एम्प्राई	सेन्टीडर
सरधान	82	0	11 57
	83	0	06 24
	74	0	17 29
	73	0	03 38
	75	0	10 40
	69	0	04 16
	68	0	21 19
	67	0	17 94
	39	0	03 25
	42	0	05 72
	561	0	02 73
	562	0	09 75
	563	0	01 60
	564	0	05 33
	बी० पी०	0	04 16

[सं० 12016/60/81-प्र० I]

S.O. 131.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Well No. 81 to Booth No. 2 in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission ;

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara (390 009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

Pipeline from well No. 81 to Booth No. 2.

State : Gujarat	District : Bharuch	Taluka : Ankleshwar			
Village	Block No.	Hectare	Ac	Centiare	
Sarthan	82	0	11	57	
	83	0	06	24	
	74	0	17	29	
	73	0	03	3	
	75	0	10	40	
	69	0	04	16	
	68	0	21	19	
	67	0	17	94	
	39	0	03	25	
	42	0	05	72	
	561	0	02	73	
	562	0	09	75	
	563	0	02	60	
	564	0	05	33	
	VP	0	04	16	

[No. 12016/60/81-Prod I]

का० धा० 132.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में ब्लॉक नं० 18 में ब्लॉक नं० 2 तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्विषयक अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (II) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्णन की उक्त भूमि में हितवन् कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, यशोवरा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या कि भी बिधि व्यवसायी की भाँति।

अनुसूची

ब्लॉक नं० 18 से ब्लॉक नं० 2 तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच तालुका : अंकलेश्वर

गांव	ब्लॉक नं०	हेक्टेयर	एघारई	सेन्टीयर
सरधान	36	0	06	89
	32	0	04	03
	30	0	09	10
	27	0	05	59
	26	0	05	59
	40	0	08	19
	566	0	16	38
	564	0	04	03

[सं० 12016/60/81/प्रो० II]

S.O. 132.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Well No. 18 to Booth No. 2 in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission ;

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

SCHEDULE

Pipelines from well No. 18 to Booth No. 2

State : Gujarat	District : Bharuch	Taluka : Ankleshwar			
Village	Block No.	Hectare	Ac	Centiare	
Sarthan	36	0	06	89	
	32	0	04	03	
	30	0	09	10	
	27	0	05	59	
	26	0	05	59	
	40	0	08	19	
	466	0	16	38	
	564	0	04	03	

[No. 12016/60/81-Prod. II]

नई दिल्ली, 2 जनवरी, 1982

का० धा० 133.—यतः इस संलग्न अनुसूची में विनिर्दिष्ट और पेट्रोलियम खनिज पाइपलाइन (भूमि में उपयोग के अधिकारों का अर्जन) अधिनियम, 1962 की धारा 6 की उपधारा (1) के अधीन प्रकाशित भारत सरकार की अधिसूचना द्वारा इण्डियन आयल कार्पोरेशन लिमिटेड के लिए उत्तर प्रदेश में मथुरा से पंजाब में जालन्धर तक पेट्रोलियम के परिवहन के लिए उस संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित कर लिया गया है।

और यतः इण्डियन आयल कार्पोरेशन लिमिटेड ने उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (1) में विनिर्दिष्ट प्रक्रिया की अनुसूची में निर्दिष्ट गांव के नाम के सामने दिखाई गई तिथि से पर्यवसित कर दिया है।

अतः यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकारों का अर्जन) नियमावली, 1963 के नियम 4 के अधीन सक्षम प्राधिकारी उक्त निधि को ऊपर निर्दिष्ट सक्रिय पर्यवसान के रूप में एतद्वारा अधिसूचित करते हैं।

अनुसूची				
व्ययन क्षेत्र मथुरा जालन्धर तक पाइपलाइन संक्रिया पर्यवसान				
तहसील : सोनीपत	जिला : सोनीपत	राज्य : हरियाणा		
मंत्रालय का नाम	गाँव	का० प्रा० भाग	संक्रिया	
		सं० के राज-पर्य-	पत्र में बसान	
			प्रकाशन की	
			तिथि	

1	2	3	4	5
पेट्रोलियम, रसायन एवं बेयापुर	1732	13-6-81	15-12-81	
उर्वरक मंत्रालय	ककरोई	"	"	
(पेट्रोलियम विभाग)	मेहलाना	"	"	
	गढ़ी ब्रह्मनाथ	"	"	
	बडवासनी	"	"	
	सोनीपत पट्टी	"	"	
	जाटान	"	"	
	किलोहड	"	"	
	शाहजवापुर	"	"	
	सांवलकला	"	"	
	सांदलखुर्द	"	"	
	चिटयाओलिया	"	"	
	पंचिजाटान	"	"	

[सं एम टी पी एन/जी/एल ए/4/306]

टी० एन० परमेश्वरन्, अवसर सचिव

New Delhi, the 2nd January, 1982

S.O. 133.—Whereas by the notification of Government of India as shown in the schedule appended hereto and issued under sub-section (1) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the Right of User has been acquired in the lands specified in the schedule appended thereto for the Indian Oil Corporation Limited for the transport of petroleum from Mathura in Uttar Pradesh to Jullundur in Punjab.

And whereas the Indian Oil Corporation Limited has terminated the operation referred to in clause (i) of sub-section (1) of section 7 of the said Act on the date shown against the name of village in the schedule.

Now, therefore, under rule 4 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Rules, 1963, the Competent Authority here by notifies the said date as the date of termination of the said operation.

SCHEDULE

Termination of operation of Pipeline from :

Tehsil : Sonapat District : Sonapat State : Haryana

Name of Ministry—	Name of Vill.	S.O. No.	Date of publication in Gazette of India	Date of Termination
Petroleum, Chemicals & Fertiliser (Deptt. of Petroleum).	Bhayyanpur	1732	13-6-81	15-12-81
	Kakroi		"	"
	Mehlana		"	"
	Garhi Brahmanan		"	"
	Bharwasni		"	"

1	2	3	4	5
	Sonapat Patti	1732	13-6-81	15-12-81
	Jatan		"	"
	Kilohad		"	"
	Shajadpur		"	"
	Sandal Khurd		"	"
	Sandal Kalan		"	"
	Chatia Alia		"	"
	Panchi Jatan		"	"

[No. HTPL/G/LA/4 /306]

T. N. PARAMESHWARAN, Under Secy.

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 29 दिसम्बर, 1981

का० प्रा० 134.—केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957, (1957 का 20) की धारा 7 की उपधारा (1) के अधीन भारत सरकार के भूतपूर्व इस्पात, खान और कोयला मंत्रालय (कोयला विभाग) की अधिसूचना सं० का० प्रा० 3294, तारीख 29 नवम्बर, 1980 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र में भूमि का अर्जन करने के अपने प्राशय की सूचना दी थी,

और सक्षम प्राधिकारी, ने उक्त अधिनियम की धारा 8 के अनुसरण में अपनी रिपोर्ट केन्द्रीय सरकार को दे दी है;

और केन्द्रीय सरकार का, पूर्वोक्त रिपोर्ट पर विचार करने और उक्त सरकार से परामर्श करने के पश्चात् यह समाधान हो गया है कि इससे संलग्न अनुसूची में वर्णित :

(क) इससे उपाबद्ध अनुसूची "क" में वर्णित 6.25 एकड़ (लगभग) या 2.52 हेक्टर (लगभग) माप वाली भूमि, और

(ख) इससे उपाबद्ध अनुसूची "ख" में वर्णित 748.75 एकड़ (लगभग) या 303.00 हेक्टर (लगभग) माप वाली भूमि के खनन, खदान, बेजन, खोदने और उनमें खनिजों की तलाश करने, प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकारों, का अर्जन किया जाना चाहिए ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 9 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, यह घोषणा करती है कि उक्त अनुसूची "क" और "ख" में वर्णित 755.00 एकड़ (लगभग) या 305.53 हेक्टर (लगभग) माप की भूमि का अर्जन किया जाता है।

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक का निरीक्षण अपर जिला मजिस्ट्रेट, धनकानाल, उड़ीसा के कार्यालय में या कायना नियन्त्रक 1, कार्जन्स हाउस स्ट्रीट, कलकत्ता के कार्यालय में अथवा सेंट्रल कोलफील्ड्स लिमिटेड, (राजस्व अनुभाग) दरभंगा हाउस, रांची, बिहार के कार्यालय में किया जा सकता है।

अनुसूची "क"

वेजलबेरा वक्षिण-पूर्वी विस्तार ब्लॉक
(तलचर कोयला क्षेत्र)

जिला धनकानाल, उड़ीसा

रेखांक सं० राजस्व/39/81 तारीख 19-3-81

(जिसमें अर्जित की गई भूमि दर्शाई की गई है)

सभी अधिकार

क्र०सं०	ग्राम	थाता	जिला	क्षेत्र	टिप्पणियाँ
1	निजीगढ़ जेमे	तलचर (नगर) सहर	धनकानाल	6.25	भागतः
				कुल क्षेत्रः	6.25 एकड़ (लगभग) या 2.52 हेक्टेयर (लगभग)

ग्राम निजीगढ़ जैमें अर्जित किए गए प्लॉट संख्यांक :

791(भाग), 794(भाग), 795(भाग), 796(भाग), 797(भाग), 835(भाग), 837(भाग), 991(भाग), और 992(भाग),

सीमा वर्णन

अ-य रेखा ग्राम निजीगढ़ जैमें में प्लॉट सं० 795, 794, 791, (जो खनन अधिकार क्षेत्र के साथ सामान्य सीमा बनाती है) से होती हुई जाती है।

अ-उ रेखा ग्राम निजीगढ़ जैमें से प्लॉट सं० 791 और 992 (जो खनन अधिकार क्षेत्र के साथ सामान्य सीमा बनाती है) से होती हुई जाती है।

उ-उ रेखा ग्राम निजीगढ़ जैमें में प्लॉट सं० 992, 991, 794 से होती हुई और प्लॉट सं० 835 और 838 की भागन : सामान्य सीमा के साथ-साथ (जो खनन अधिकार क्षेत्र के साथ सामान्य सीमा बनाती है) जाती है।

उ-अ रेखा ग्राम निजीगढ़ जैमें में प्लॉट सं० 835, 837, 797, 796 और 795 (जो खनन अधिकार क्षेत्र के साथ सामान्य सीमा बनाती है) से होती हुई जाती है और आरंभिक बिन्दु 'अ' पर मिलती है।

अनुसूची ख-1

तेलचौरा दक्षिण-पूर्व विस्तारण ब्लॉक

(तेलचौरा कोयला क्षेत्र)

जिला धनकानाल, उड़ीसा

रेखांक सं० राजस्व 39/81 तारीख 19-3-81

(जिसमें वह भूमि दर्शित की गई है जिसमें खनन, खदान, वेधन, खोदने और उसमें से खनिज की तलाश करने, प्राप्त करने, उनपर कार्य करने और उन्हें ले जाने के अधिकार अर्जित किए गए हैं।

खनन अधिकार

क्रम सं० ग्राम	ग्राम	जिला	क्षेत्र	दिश्य- णियां
1 निजीगढ़ जैमें	तेलचौरा (नगर)	धनकानाल	318.75	भाग
2 निजीगढ़ (तेलचौरा नगर)	तेलचौरा (नगर)	धनकानाल	45.00	भाग
3 गोपीनाथपुर	तेलचौरा (नगर)	धनकानाल	72.00	भाग
4 रेसुआ	तेलचौरा (नगर)	धनकानाल	88.00	भाग
कुल क्षेत्र 528.75 एकड़ (लगभग)				
या 211.95 हेक्टर (लगभग)				

ग्राम निजीगढ़ जैमें में अर्जित किए गए प्लॉट संख्यांक :

139(भाग), 140, 145(भाग), 146(भाग), 147(भाग), 148 से 160, 161(भाग), 164(भाग), 175(भाग), 181(भाग), 183(भाग), 184(भाग), 185 से 215, 216(भाग), 217, 218(भाग), 219(भाग), 220(भाग), 221(भाग), 305(भाग), 306(भाग), 307(भाग), 308 से 452, 453(भाग), 454, 455(भाग), 456(भाग) 547(भाग), 548(भाग), 549 से 553, 554(भाग), 555(भाग), 621(भाग), 622(भाग), 623(भाग), 624(भाग), 625(भाग), (भाग), 633(भाग), 634, 635, 636, 637(भाग), 638 से 662, 663(भाग), 664 से 737, 738(भाग), 739(भाग), 758(भाग), 759(भाग), 760(भाग), 761 से 790, 791 (भाग), 792, 793, 794 (भाग), 795 (भाग), 796 (भाग), 797 (भाग), 798, 799, 800 (भाग), 801 से 834, 835 (भाग), 836, 837, (भाग), 838 से 902, 903 (भाग), 904 से 990, 991

(भाग), 992 (भाग) 993 से 1015, 1016 (भाग), 1024 (भाग), 1033 (भाग), 1034 (भाग), 1035 से 1074, 1075 (भाग), 1076(भाग), 1079(भाग), 1080 से 1140, 1141 (भाग), 1142 (भाग), 1143 से 1159, 1160 (भाग), 1161 (भाग), 1172 (भाग), 1173(भाग), 1174(भाग), 1176(भाग), 1177(भाग), 1178(भाग), 1179(भाग), 1180(भाग), 1181 से 1278, 1279(भाग), 2480(भाग), 2857(भाग), 2858(भाग), 2859, 2865(भाग), 3026(भाग), 3029, 3032, 3033, 3034, 3041, 3044, 3048, 3049(भाग), 3063 से 3067, 3069, 3070, 3071, 3084, 3085, 3086, 3087, 3088, 3089, 3100, 3102 से 3104, 3105, (भाग), 3106 (भाग), 3121, 3128, 3129, 3144, 3185, 3186, 3194, 3185, 3196, 3209, 3213, 3216, और 3218,

ग्राम निजीगढ़ (तेलचौरा नगर) में अर्जित किए गए प्लॉट संख्यांक, 118(भाग), 127(भाग), 128(भाग), 129(भाग), 130(भाग), 416(भाग), 417(भाग), 418(भाग), 419(भाग), 420(भाग), 421(भाग), 422(भाग), 423(भाग), 426(भाग), 427(भाग), 428(भाग), 429(भाग), 430(भाग), 431 से 455, 456 (भाग), 457(भाग), 458 से 462, 463(भाग), 464, 465, 466, 467, 468(भाग) 469, 470, 471, 472(भाग), 473(भाग), 474, 475, 476, 477(भाग), 478(भाग), 479 से 482, 483(भाग), 484(भाग), 485, 486, 487, और 488 के बीच असंख्यांकित प्लॉट (भाग), 493, और 494, 495 और 496, 499 और 500, 494, 495, 500, 501 (भाग), 507 (भाग) 553 (भाग), 554(भाग), 559(भाग), 560, 561, 562(भाग), 563(भाग), 566, 567, 568, 569, 570(भाग), 572, 573(भाग), 574, 575, 576, (भाग), 577(भाग), 578 से 581, 582(भाग), 583 से 820, 821(भाग), 822(भाग), 829(भाग), 830(भाग), 831 (भाग), 834(भाग), 835(भाग), 838(भाग), 839(भाग), 840 से 1059, 1060(भाग), 1061(भाग), 1062(भाग), 1063 से 1070 1071(भाग), 1072, 1073 (भाग), 1074(भाग), 1075(भाग), 1077 (भाग), 1104(भाग), 1106(भाग), 1107, 1108, 1109 (भाग), 1110 (भाग), 1111, 1112, 1113, (भाग), 1114, 1115 (भाग), 1116 (भाग), 1104 और 1101, के बीच असंख्यांकित प्लॉट (भाग), 1104, और 1113, 1104, और 1114, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126(भाग), 1127(भाग), 1128 से 1191, 1192 (भाग), 1193 (भाग), 1194 (भाग), 1196(भाग), 1197 से 1203, 1204(भाग), 1205 से 1208, 1209 (भाग), 1210(भाग), 1211 (भाग), 1212 से 1217, 1218 (भाग), 1227 (भाग), 1228 (भाग), 1229 (भाग), 1230 (भाग), 1231 (भाग), 1232 (भाग), 1233 (भाग), 1234 से 1242, 1243 (भाग), 1244 (भाग), 1245, 1246 (भाग), 1247, 1248 (भाग), 1249, 1250, 1251 (भाग), 1252 (भाग), 1253, 1254, 1255(भाग), 1256 (भाग), 1257, 1258, 1259 (भाग), 1260 (भाग), 1261, 1262, 1263 (भाग), 1264, (भाग), 1265, 1266, 1267(भाग), 1268(भाग) 1269, 1270, 1271 (भाग), 1272 (भाग), 1273, 1274, 1275, (भाग), 1276 (भाग), 1277, 1278, 1279 (भाग), 1280, 1281 (भाग), 2392 (भाग), 2393 (भाग), 2394 (भाग), 2401 (भाग), 2402(भाग), 2403 (भाग), 2404 (भाग), 2405 (भाग), 2406 (भाग), 2407 से 2411, 2412 (भाग), 2413 (भाग), 2414, 2415, 2416, 2417, 2418 (भाग), 2422(भाग), 2423 (भाग), 2424 (भाग), 2425 (भाग), 2426 (भाग), 2427, 2428 (भाग), 2429, 2430 (भाग), 2431 से 2454, 2455 (भाग), 2456, 2457, (भाग), 2459 2460 (भाग), 2467 (भाग), 2468(भाग), 2469 (भाग), 2470, 2471, 2472, 2473 (भाग), 2474 (भाग), 2475, 2476, 2477, 2478 (भाग), 2479 (भाग), 2480, 2481 (भाग), 2482 (भाग),

(भाग), 2499 (भाग), 2500 (भाग), 2501 (भाग), 3085 (भाग), 3089 (भाग), 3090, 3091 (भाग), 3098 (भाग), 3112 (भाग), 3113 (भाग), 3114 (भाग), 3115 (भाग), 3116 (भाग), 3119 (भाग), 3120 (भाग), 3121 (भाग), 3122 (भाग), 3123 (भाग), 3124 (भाग), 3125 से 3128, 3129 (भाग), 3130 (भाग), 3131, 3132 (भाग), 3133, 3134, 3135 (भाग), 3136 से 3145, 3146 (भाग), 3147 से 3151, 3152 (भाग), 3153 (भाग), 3154 (भाग), 3158 (भाग), 3184 (भाग), 3202 (भाग), 3203 (भाग), 3213, 3217, 3218 (भाग), 3222, 3223, 3225, 3226, 3238.

ग्राम गोपीनाथपुर में अर्जित किए गए प्लाट संख्यांक :

1 से 58, 59 (भाग), 63 (भाग), 64 से 69, 70 (भाग), 78 (भाग), 79 (भाग), 80 (भाग), 81 से 120, 121 (भाग), 122 से 137, 138 (भाग), 139 (भाग), 144, 145, 146, 147 (भाग), 148 से 219, 220 (भाग), 221 से 229, 230 (भाग), 231 (भाग), 232 (भाग), 233 (भाग), 255 (भाग), 256 से 259, 260 (भाग), 261 (भाग), 262, 263, 264 (भाग), 265 (भाग), 272 (भाग), 274, 278, 279, 302, 305, 307, 308, 309, 310 (भाग), 372 (भाग), और ग्राम गोपीनाथपुर से सड़क के पूर्वी और कुछ असंख्यांकित प्लाट पूर्ण भाग।

ग्राम रेमुघा में अर्जित किए गए प्लाट संख्यांक :

184 (भाग), 246 (भाग), 247 (भाग), 248 (भाग), 249 (भाग), 250 (भाग), 265 (भाग), 266 (भाग), 267 (भाग), 268 से 278, 279 (भाग), 280 से 285, 286, (भाग), 287 (भाग), 288 से 294, 295 (भाग), 296, 297 (भाग), 298 (भाग), 299, 300 (भाग), 301 (भाग), 304 (भाग), 306 (भाग), 307 (भाग), 309 से 422, 423 (भाग), 424, से 433, 434 (भाग), 435 से 449, 450, (भाग), 451, 452 (भाग), 453 (भाग), 455 (भाग), 456 (भाग), 474 (भाग), 482 (भाग), 483, 484 (भाग), 485 (भाग), 486 (भाग), 487 (भाग), 488 (भाग), 489, 490, 496, 492, 493 (भाग), 494, 495 (भाग), 497 (भाग), 498 (भाग), 499 (भाग), 500 (भाग), 501 (भाग), 518 (भाग), 519 (भाग), 545 (भाग), 546 (भाग), 548 (भाग), 549 (भाग), 609 (भाग), 613 (भाग), 614 (भाग), 615, 617 (भाग), 618 (भाग), 619, 620 (भाग), 621 से 631, 632 (भाग), 633 से 651, 652 (भाग), 653 से 658, 662 (भाग), और कुछ असंख्यांकित प्लाट।

सीमा वर्णन

क-ब-ग- रेखाएं ग्राम रेमुघा में प्लाट सं० 265, 184, 250, 149, 248, 247, 246, 490, 498, 501, 500, 499, 545, 546, 548, 518, 519 से होती हुई जाती है।

ग-ब-घ- रेखाएं ग्राम रेमुघा के प्लाट सं० 519, 518, 549, 545, 498, 497, 488, 487, 486, 485, 484, 482, 474, असंख्यांकित प्लाट से होती हुई प्लाट सं० 422 की भागत : दक्षिणी सीमा के साथ-साथ प्लाट सं० 423, 456, 455, 450, 662, 453, 452, 609, 434, 614, 613, 617, 618, 620, 632, 652, से होती हुई ग्राम निजीगढ़ जैसे के प्लाट सं० 218, 219, 221, 220, 305, 306, 307, 453, 455, 456, 548, 547, 554, 555, 663, 621, 622, 623, 624, 637, 625, 633, से होती हुई प्लाट सं० 631, की उत्तरी सीमा के साथ-साथ प्लाट सं० 738, 739, 759, 758, 1016, 1024, 1034,

1033, 1076, 1078, 1079, 1279, 3218, 3106, 3108, 3049, 2480, 2858, 2857, 2869 से होती हुई ग्राम गोपीनाथपुर के प्लाट सं० 272, 220, 230, 231, 232, 233, 255, 260, 253, 261, 372, 265, 310, 264, सड़क से होती हुई और कुछ असंख्यांकित प्लाटों से होती हुई जाती है।

झ-ञ- रेखा सड़क की पूर्वी ओर के असंख्यांकित प्लाटों से होती हुई फिर प्लाट सं० 144 और 145 की पूर्वी सीमा के साथ-साथ सड़क, प्लाट सं० 139 से होती हुई फिर ग्राम गोपीनाथपुर में प्लाट सं० 147, 138, 79, 80, 78, 70, 63, 59, से होती हुई ग्राम निजीगढ़ जैसे में प्लाट सं० 1172, 1173, 1174, 1176, 1177, 1178, 1179, 1180, 1160, 1161, 1142, 1141 से होती हुई ग्राम निजीगढ़ (तलचौर नगर) में प्लाट सं० 3146, 3158, 3154, 3153, 3152, 3135, 3132, 2430, 2428, 2425, 2424, 2428, 2423, 2422, 2418, 2392, 2393, 2394, 3203, 3202, 2413, 2412, 2401, 2402, से होती हुई जाती है।

च-छ- रेखा ग्राम निजीगढ़ जैसे (तलचौर नगर) में प्लाट सं० 2402, 2403, 2404, 2405, 2406, 2482, 2481, 2479, 2478, 2499, 2500, 2501, 2474, 2473, 2467, 2468, 2469, 2460, 2453, 2459, 2457, 3130, 3129, 3089, 3085, 3091, 3096, 3124, 3123, 3122, 3121, 3120, 3119, 3121, 3116, 3115, 3112, 3113, 3114, से होती हुई ग्राम निजीगढ़ जैसे में प्लाट सं० 903 और 800 से होती हुई फिर ग्राम निजीगढ़ (तलचौर नगर) में प्लाट सं० 1060, 1061, 1062, असंख्यांकित प्लाट 1075, 1074, 1071, 1106, 1109, 1104, 1110, 1113, 1115, 1116, 1126, 1127, 1194, 1192, 1193, 1196, 1204, 1209, 1210, 1211, 1218, 1233, 1232, 1231, 1230, 1229, 1228, 1227, 1243, 1244, 1246, 1248, 1251, 1252, 1255, 1256, 1259, 1260, 1263, 3218, 1264, 1267, 1268, 1271, 1272, 1275, 1276, 1279, 1281, 839, 838, 835, 834, 831, 830, 829, 822, 821, मार्ग, 429, 428, 427, 426, 423, 422, 421, 420, 419, 418, 417, 416, 428, 429, 430, 456, 457, 463, 468, 472, 473, 477, 478, 483, कुछ असंख्यांकित प्लाट 484, 501, 507, 553, 554, 582, 577, 576, 570, 565, 562, 559, 130, 129, 128, 127, 3184, 118 से होती हुई ग्राम रेमुघा में प्लाट सं० 304, 306, 307, 308, 300, 301, 298, 287, से होती हुई ग्राम निजीगढ़ जैसे से (जी देउलबेरा पूर्वी विस्तारण के साथ सामान्य सीमा बनाती है) प्लाट सं० 175 से होती हुई जाती है।

छ-ज-क रेखाएं ग्राम निजीगढ़ जैसे में प्लाट सं० 175 से होती हुई फिर ग्राम रेमुघा में प्लाट सं० 295, 279, 287, 286, 279, से होती हुई प्लाट निजीगढ़ जैसे में प्लाट सं० 181, 184, 183, 164, 161, 147, 146, 145, 3026, 139, से होती हुई ग्राम रेमुघा में (जी देउलबेरा कोयला खान पट्टा सीमा की सामान्य सीमा भी है) प्लाट सं० 267, 184, 266, और 265 से होती हुई जाती है और आरंभिक बिन्दु "क" पर मिलती है।

अनुसूची "ख"—11

देउलचेरा छत्तरी-पूर्व विस्तारण ब्लॉक

(तलचेर कोयला क्षेत्र)

जिला धनकानाल (उड़ीसा)

रेखांक सं० राजस्व/38/81

तारीख 19-3-81

(जिसमें वह भूमि दर्शित की गई है, जिसमें खनन, खदान, बेघन, खोदने और उसमें से खनिज की तलाश करने, प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकार अर्जित किए गए हैं)

क्रम सं०	ग्राम	थाना	जिला	क्षेत्र	टिप्पणियां
1.	निजीगढ़ (तलचेरनगर)	तलचेर (नगर) सदर	धनकानाल	140.75	भाग
2.	रानीपार्क आर०एफ०	तलचेर (ग्राम) सदर	धनकानाल	84.25	भाग

कुल क्षेत्र 225.00 एकड़ (लगभग)

या 91.05 हेक्टर (लगभग)

ग्राम निजीगढ़ (तलचेर नगर) में अर्जित किए गए प्लॉट संख्याक : 1484 (भाग), 1491 (भाग), 1492 (भाग), 1493, 1494 (भाग), 1495, 1496 (भाग), 1497 (भाग), 1498 (भाग), 1501 (भाग), 1502 (भाग), 1519 (भाग), 1520 (भाग), 1521 (भाग), 1526 (भाग), 1527 (भाग), 1528, 1529 (भाग), 1530, 1531 (भाग), 1532 से 1545, 1546 (भाग), 1547 से 1595, 1596 (भाग), 1597 से 1603, 1661 (भाग), 1662 (भाग), 1663, 1664, 1665 (भाग), 1666 (भाग), 1672 (भाग), 1673, 1674, 1675, 1676 (भाग), 1677, 1693 (भाग), 1695, 1696 (भाग), 1697 (भाग), 1698 (भाग), 1699, 1700 से 1715, 1716 (भाग), 1717 से 1720, 1722 (भाग), 1723 (भाग), 1793 से 1833, 1843 (भाग), 1835, 1836 (भाग), 1849 (भाग), 1850 (भाग), 1851 से 1872, 1873 (भाग), 1874 (भाग), 1875, 1876 (भाग), 1878 (भाग), 1907 (भाग), 1908, 1913 (भाग), 1914 से 1932, 1933 (भाग), 1934, 1935, 1936 (भाग), 1937 (भाग), 1938, 2014 (भाग), 2016 (भाग), 2035 (भाग), 2036 (भाग), 2037 (भाग), 2038 से 2045, 2046 (भाग), 2048 (भाग), 2049 (भाग), 2050 (भाग), 2082 (भाग), 2083 (भाग), 2084 (भाग), 3196.

ग्राम रानीपार्क आर०एफ० में अर्जित किए गए प्लॉट संख्याक :

17 (भाग), 39 (भाग), 40 (भाग), 41 (भाग), 42, 43 (भाग), 44, 47 (भाग), 48; (भाग), 49 (भाग), 50 (भाग) और 57 (भाग); सीमा विवरण :

क-ख रेखा ग्राम रानीपार्क (आर०एफ०) में प्लॉट सं० 57 से होकर फिर ग्राम निजीगढ़ (तलचेर नगर) में प्लॉट सं० 1526 1527, 1529, 1531, 1546, 1521, 1520, 1519, 1502, 1501, 1498, 1497, 1496, 1491, 1492 फिर 1491, 1484, 2084, 2085, 2082, 2046, 2048, 2049, 2050, 2037, 2014, 2016 से से होती हुई जाती है।

ख-ग रेखा ग्राम निजीगढ़ (तलचेर नगर) में प्लॉट सं० 2016, 2035, 2036, 1937, 1938, 1933, 1913, 1907, 1878, 1876, 1874, 1873, 1850, 1849, 1834,

1836, प्लॉट सं० 1834, 1793 की पूर्वी सीमा से होती हुई फिर प्लॉट सं० 1834, 1716, 1723, 1722, 1698, 1697, 1696, 1693, 1676, 1661, 1662 में से होती हुई जाती है।

ग-घ रेखा ग्राम निजीगढ़ (तलचेर नगर) में प्लॉट सं० 1662, 1665, 1666, 1672, 1596 से होती हुई फिर ग्राम रानीपार्क (आर०एफ०) में प्लॉट सं० 39, 40, 41, 43, 44, 47, 48, 49, 17 में से होती हुई जाती है।

घ-क रेखा ग्राम रानीपार्क (आर०एफ०) में प्लॉट सं० 17, 50, 57 से होती हुई जाती है और आरम्भिक बिन्दु "क" पर मिलती है।

[सं० 19/21/81-सी एल]

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 29th December, 1981

S.O. 134.—Whereas by the notification of the Government of India in the Ministry of Steel, Mines and Coal (Department of Coal) No. S. O. 3294 dated the 29th November, 1980 under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the land specified in the Schedule appended to that notification

And whereas the competent authority in pursuance of section of 8 the said Act has made his report to the Central Government;

And whereas the Central Government, after considering the report aforesaid and, after consulting the Government of Orissa, is satisfied that;

(a) the lands measuring 6.25 acres (approx.) or 2.52 hectares (approx.) described in Schedule 'A' appended hereto; and

(b) the rights to mine, quarry, bore, dig and search for win, work and carry away minerals in the lands measuring 748.75 acres (approximately) or 303.00 hectares (approximately) described in Schedule 'B' appended hereto should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the lands measuring 755.00 acres (approximately) or 305.53 hectare (approximately) described in the said Schedules 'A' and 'B' are hereby acquired.

The plans of the area covered by this notification may be inspected in the Office of the Additional District Magistrate, Dhenkanal, Orissa or in the Office of the Coal Controller, I, Council House Street, Calcutta, or in the Office of Central Coal-fields Limited (Revenue Section), Darbhanga House, Ranchi (Bihar).

SCHEDULE A

Deulbera South-East Extension Block,
(Talcher Coalfields)
District Dhenkanal, Orissa

Drg. No. Rev/39/81
Date : 19-3-1981
(Showing lands acquired)

All Rights

Sl. No.	Village	Thana or P. S.	District	Area	Remarks
1.	Nizigarh Jamme	Talcher (Town) Sadar	Dhenkanal	6.25	Part
Total area : 6.25 acres (Approximately) or : 2.52 Hectares (Approximately)					

Plot numbers acquired in village Nizigarh Jamme:—

791(Part), 704(Part), 795(Part), 796(Part), 797(Part), 835 (Part), 837(Part), 991(Part), and 992(Part).

Boundary description :

- I—J line passes through plot-Nos. 795, 794, 791 (which forms common boundary with mining right area) in village Nizigarh Jamme.
- J—K line passes through plot Nos. 791 & 992 (which forms common boundary with mining right area) in village Nizigarh Jamme.
- K—L line passes through plot Nos. 992, 991, 794 and along the part common boundary of plot No. 835 & 838 (which form common boundary with mining right area) in village Nizigarh Jamme.
- L—I line passes through plot Nos. 835, 837, 797, 796 & 795 (which forms common boundary with mining right area) in village Nizigarh Jamme and meets at starting point 'I'.

SCHEDULE BI

Deulbera South-East Extension Block
(Talcher Coalfield)

District Dhenkanal, Orissa.

MINING RIGHTS Drg. No. Rev/39/81 Dt. 19-3-81
(Showing lands where rights to mine
quarry bore, dig and search for,
win, work & carry away minerals
are acquired).

Sl. No.	Village	Thana or P.S.	District	Area	Remarks
1.	Nizigarh Jamme	Talcher	Dhenkanal	318.75	Part
	(Town)				
2.	Nizigar (Talcher Town)	—do—	—do—	45.00	Part
3.	Gopinathpur	—do—	—do—	72.00	Part
4.	Remue	—do—	—do—	88.00	Part

Total area : 523.75 acres (approximately)
or 211.95 hectares (approximately).

Plot numbers acquired in village Nizigarh Jamme :

139 (Part), 140, 145 (Part), 146 (Part), 147 (Part), 148 to 160, 161 (Part), 164 (Part), 175 (Part) 181 (Part), 183 (Part), 184 (Part), 185 to 215, 216 (Part), 217 218 (Part), 219 (Part), 220 (Part), 221 (Part), 305 (Part), 306 (Part), 307 (Part), 308 to 452, 453 (Part), 454, 455 (Part), 456 (Part), 547 (Part), 548 (Part), 549 to 553, 554 (Part), 555 (Part), 621 (Part), 622 (Part), 623 (Part), 624 (Part), 625 (Part), 633 (Part), 634, 635, 636, 637 (Part), 638 to 662, 663 (Part), 664 to 737, 738 (Part), 739 (Part), 758 (Part), 759 (Part), 760 (Part), 761 to 790, 791 (Part), 792, 793, 794 (Part), 795 (Part), 796 (Part), 797 (Part), 798, 799, 800 (Part), 801 to 834, 835 (Part), 836, 837 (Part), 838 to 902, 903 (Part), 904 to 990, 991 (Part), 992 (Part), 993 to 1015, 1016 (Part), 1024 (Part), 1033 (Part), 1034 (Part), 1035 to 1074 1075 (Part), 1076 (Part), 1079 (Part), 1080 to 1140, 1141 (Part) 1142 (Part), 1143 to 1159, 1160 (Part), 1161 (Part), 1172 (Part), 1173 (Part), 1174 (Part), 1176 (Part), 1177 (Part), 1178 (Part), 1179 (Part), 1180 (Part), 1181 to 1278, 1279 (Part), 2480 (Part), 2857 (Part), 2858 (Part), 2859, 2865 (Part), 3026 (Part), 3029, 3032, 3033, 3034, 3041, 3044, 3048, 3049 (Part), 3063 to 3067, 3069, 3070, 3071, 3084, 3085, 3086, 3087, 3088, 3089, 3100, 3102 to 3104, 3105 (Part), 3106 (Part), 3121, 3128, 3129, 3144, 3185, 3186, 3194, 3195, 3196, 3209, 3213, 3215, and 3218.

Plot numbers acquired in village Nizigarh (Talcher Town) :

118 (Part), 127 (Part), 128 (Part), 129 (Part), 130 (Part), 416 (Part), 417 (Part), 418 (Part), 419 (Part), 420 (Part), 421 (Part), 422 (Part), 423 (Part), 426 (Part), 427 (Part), 428 (Part), 429 (Part), 430 (Part), 431, to 455, 456 (Part), 457 (Part), 458 to 462, 463 (Part), 464 465, 466, 467 468 (Part) 469, 470, 471, 472 (Part), 473 (Part), 474 475, 476 477 (Part), 478 (Part), 479 to 482, 483 (Part), 484 (Part), 485, 486, 487, un-numbered plot (Part) between 487 and 488, 493, and 494, 495, 496, 499 & 500 494, 495, 500, 501 (Part), 507 (Part), 553 (Part), 554 (Part), 559 (Part), 560, 561, 562 (Part), 565 (Part), 566, 567, 568, 569, 570 (Part), 572, 573 (Part), 574, 575, 576 (Part), 577 (Part), 578 to 581, 582 (Part), 583 to 820, 821 (Part), 822 (Part), 829, (Part), 830 (Part), 831 (Part), 834 (Part), 835 (Part), 838 (Part), 839 (Part), 840 to 1059, 1060 (Part), 1061 (Part), 1062 (Part), 1063 to 1070, 1071 (Part) 1072, 1073 (Part), 1074 (Part), 1075 (Part), 1077 (Part), 1104 (Part), 1106 (Part), 1107, 1108, 1109 (Part), 1110 (Part), 1111, 1112, 1113, (Part), 1114, 1115 (Part), 1116 (Part), un-numbered plot (Part), between 1104 & 1101, 1104, & 1113, 1104 & 1114, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124 1125, 1126 (Part), 1127 (Part), 1128 to 1191, 1192 (Part), 1193 (Part), 1194 (Part), 1196 (Part), 1197 to 1203, 1204 (Part), 1205 to 1208, 1209 (Part), 1210 (Part), 1211 (Part), 1212 to 1217, 1218 (Part), 1227 (Part), 1228 (Part), 1229 (Part), 1230 (Part), 1231 (Part), 1232 (Part), 1233 (Part), 1234 to 1242, 1243 (Part), 1244 (Part), 1245, 1246 (Part), 1247, 1248 (Part), 1249, 1250, 1251 (Part), 1252 (Part), 1253, 1254, 1255 (Part), 1256 (Part), 1257 1258, 1259 (Part), 1260 (Part), 1261, 1262, 1263 (Part), 1264 (Part), 1265 1266, 1267 (Part), 1268 (Part), 1269, 1270, 1271 (Part), 1272 (Part), 1273, 1274, 1275 (Part), 1276 (Part) 1277, 1278, 1279 (Part), 1280, 1281 (Part), 2392 (Part), 2393 (Part), 2394 2401 (Part), 2402 (Part), 2403 (Part), 2404 (Part), 2405 (Part), 2406 (Part), 2407 to 2411, 2412 (Part), 2413 (Part), 2414, 2415, 2416, 2417, 2418 (Part), 2422 (Part), 2423 (Part), 2424 (Part), 2425 (Part), 2426 (Part), 2427, 2428 (Part), 2429, 2430 (Part), 2431 to 2454, 2455 (Part), 2456, 2457 (Part), 2459 (Part), 2460 (Part), 2467 (Part), 2468 (Part), 2469 (Part), 2470, 2471, 2472, 2473 (Part), 2474 (Part), 2475, 2476, 2477, 2478 (Part), 2479(Part), 2480, 2481 (Part), 2482 (Part), 2499 (Part), 2500 (Part), 2501 (Part), 3085 (Part), 3089 (Part) 3090, 3091 (Part).

3096 (Part), 3112 (Part), 3113 (Part), 3114 (Part), 3115 (Part), 3116 (Part), 3119 (Part) 3120 (Part), 3121 (Part), 3122 (Part), 3123 (Part), 3124 (Part), 3125 to 3128, 3129 (Part), 3130 (Part), 3131, 3132 (Part), 3133, 3134 3135 (Part), 3136 to 3145, 3146 (Part), 3147 to 3151, 3152 (Part), 3153 (Part), 3154 (Part), 3158 (Part), 3184 (Part), 3202 (Part), 3203 (Part), 3213, 3217, 3218 (Part), 3222, 3223, 3225, 3226, 3938.

Plot No. acquired in village Gopinathpur : 1 to 58, 59(Part), 63 (Part), 64 to 69, 70 (Part), 78 (Part), 79 (Part), 80 (Part), 81 to 120, 121 (Part), 122 to 137, 138 (Part), 139 (Part), 144, 145, 146, 147 (Part), 148 to 219, 220 (Part), 221 to 229, 230 (Part), 231 (Part), 232 (Part), 233 (Part), 255 (Part), 256 to 259, 260 (Part), 261 (Part), 262, 263, 264 (Part), 265 (Part), 272 (Part), 274, 278, 279, 302, 305, 307, 308, 309, 310, (Part), 372 (Part), and some un-numbered plots full or parts falling east of the road in village Gopinathpur.

Plot numbers acquired in village Remua : 184 (Part), 246 (Part), 247 (Part), 248 (Part), 249 (Part), 250 (Part), 265 (Part), 266 (Part), 267 (Part), 268 to 278, 279 (Part), 280 to 285, 286 (Part), 287 (Part), 288 to 294, 295 (Part), 296, 297 (Part), 298 (Part), 299, 300 (Part), 301 (Part), 304 (Part), 306 (Part), 307 (Part), 309 to 422, 423 (Part), 424 to 433, 434 (Part), 435 to 449, 450 (Part), 451, 452 (Part), 453 (Part), 455(Part), 456 (Part), 474 (Part), 482 (Part), 483, 484 (Part), 485 (Part), 486 (Part), 487 (Part), 488 (Part), 489, 490, 491, 492, 493 (Part), 494, 496 (Part), 497 (Part), 498 (Part), 499 (Part), 500 (Part), 501 (Part), 518 (Part), 519 (Part), 545 (Part), 546 (Part), 548 (Part), 549 (Part) 609 (Part), 613 (Part), 614 (Part), 615, 617 (Part), 618 (Part) 619, 620 (Part), 621 to 631, 632 (Part), 633 to 651, 652 (Part), 653 to 658, 622 (Part) and some un-numbered Plots.

Boundary description :

A-B-C Lines pass through plot numbers 265, 184, 250, 249, 248, 247, 246, 493, 496, 501, 500, 499, 545, 546, 548, 518, 519, in village Remua.

C-D-E Lines pass through plot numbers: 519, 518, 549, 545, 498, 497, 488, 487, 486, 485, 484, 482, 474 un-numbered plot along part southern boundary of plot number 422 through plot numbers 423, 456, 455, 450, 662, 453, 452, 609, 434, 614, 613, 617, 618, 620, 632, 652, in village Remua through plot numbers 218, 219, 221, 220, 305, 306, 307, 453, 455, 456, 548, 547, 554, 555, 663, 621, 622, 623, 624, 637, 625, 633, along northern boundary of plot number 631, through plot numbers 738, 739, 760, 759, 758, 1016, 1024, 1034, 1033, 1075, 1076, 1079, 1279, 3218, 3106, 3105, 3049, 2480, 2858, 2857, 2865 in village Nizigarh Jamee, through plot numbers : 272, 220, 230, 231, 232, 233, 255, 260, 253, 261, 372, 265, 310, 264, Road and through some un-numbered plots in village Gopinathpur.

E-F Line passes through un-numbered plots eastern side of the road, then through road, plot number 139 along the eastern boundary of the plot numbers 144 & 145 then through plot numbers 147, 138, 79, 80, 78, 70 63, 59 in village Gopinathpur, through plot numbers 1172, 1173, 1174, 1176, 1177, 1178 1179, 1180, 1160, 1161, 1142, 1141 in village Nizigarh Jamee, through plot numbers 3146, 3158, 3154, 3153, 3152, 3135, 3132, 2430, 2426, 2425, 2424, 2428, 2423, 2422, 2418 2392, 2393, 2394 3203, 3202, 2413, 2412, 2401, 2402, in village Nizigarh (Talcher Town).

F-G line passes through plot numbers 2402, 2403, 2404, 2405, 2406, 2482, 2481 2479, 2478, 2499, 2500, 2501, 2474, 2473, 2467, 2468, 2469, 2460, 2455, 2459, 2457, 3130, 3129, 3089, 3085, 3091, 3096, 3124, 3123, 3122, 3121, 3120, 3119, 3121, 3116, 3115, 3112, 3113, 3114 in village Nizigarh (Talcher Town) through plot numbers 903 & 800 in villages Nizigarh Jamee then through plot numbers : 1060, 1061, 1062 un-numbered plot 1075, 1074, 1071, 1106, 1109, 1104, 1110, 1113, 1115, 1116, 1126, 1127, 1194, 1192, 1193, 1196, 1204, 1209, 1210, 1211, 1218, 1233, 1232, 1231, 1230, 1229, 1228, 1227, 1243, 1244, 1246, 1248, 1251, 1252, 1255, 1256, 1259, 1260, 1263, 3218, 1264, 1267, 1268, 1271, 1272, 1275, 1276, 1279, 1281, 839, 838, 835, 834, 831, 830, 829, 822, 821, Road 429, 428, 427, 426, 423, 422, 421, 420, 419, 418, 417, 416, 428, 429, 430, 456, 457, 463, 468, 472, 473, 477, 478, 483, some un-numbered plots 484, 501, 507, 553, 554, 582, 577, 576, 570, 565, 562, 559, 130, 129, 128, 127, 3184, 118 in village Nizigarh (Talcher Town) through plot numbers 304, 306, 307, 306, 300, 301, 298, 297, in village Remua through plot numbers 175, in village Nizigarh Jamee (which forms common boundary with Deulabera East Extension.)

G-H-A lines pass through plot number 175 in village Nizigarh Jamee, then through plot numbers 295, 279, 287, 286, 279 in village Remua through plot numbers 181, 184, 183, 164, 161, 147, 146, 145, 3026, 139, in village Nizigarh Jamee, through plot numbers 267, 184, 266 & 265 in village Remua (which forms common boundary of Deulbera Colliery lease boundary) and meets at starting point 'A'.

Deulbera North-East Extension Block

(Talcher Coalfield)

Dist. Dhenkanal, (Orissa).

Drg. No. Rev/38/81

Date : 19-3-81.

(showing lands where rights to mine, quarry, bore, dig and search for win, work & carry away minerals are acquired)

Mining Rights

SI.				
No.	Village	Thana or P.S.	District	Area Remarks
1.	Nizigarh (Talcher Town)	Talcher (Town) Sadar	Dhenkanal	140.75 Part
2.	Rani Park R.F.	Do	Do.	84.24 Part
Total area : 225.00 acres (approximately) or : 91.05 hectares (approximately)				

Plot numbers acquired in village Nizigarh (Talcher Town) : 1484 (Part) 1491(Part), 1492(Part), 1493, 1494(Part), 1495, 1496 (Part), 1497(Part), 1498(Part), 1501(Part), 1502(Part), 1519(Part), 1520(Part), 1521(Part), 1526(Part), 1527(Part) 1528, 1529(Part), 1530, 1531(Part), 1532 to 1545, 1546(Part), 1547 to 1595, 1596

(Part), 1597 to 1603, 1661(Part), 1662(Part), 1663, 1664, 1665 (Part), 1666(Part), 1672(Part), 1673, 1674, 1675, 1676(Part), 1677, 1693(Part), 1695, 1696(Part), 1697(Part), 1698(Part), 1699, 1700, to 1715, 1716(Part), 1717 to 1720, 1722(Part), 1723(Part), 1793 to 1833, 1834(Part), 1835, 1836(Part), 1849(Part), 1850 (Part), 1851 to 1872, 1873(Part) 1874(Part), 1875, 1876(Part), 1878(Part), 1907(Part), 1908, 1913(Part), 1914 to 1932, 1933, (Part), 1934, 1935, 1936(Part), 1937(Part), 1938, 2014(Part), 2016(Part); 2035(Part) 2036(Part), 2037(Part), 2038 to 2045, 2046(Part), 2048(Part), 2049(Part), 2050(Part), 2082(Part), 2083(Part), 2084(Part) and 3196.

Plot numbers acquired in village Rani Park R.F.: 17(Part), 39(Part), 40(Part), 41(Part), 42, 43(Part), 44(Part), 47(Part), 48(Part), 49(Part), 50(Part) and 57(Part).

Boundary description :

A-B line passes through plot No. 57 in village Rani Park (R.F.) then through plot numbers 1526, 1527, 1529, 1531, 1546, 1521, 1520, 1519, 1502, 1501, 1498,

B-C

1497, 1496, 1491, 1492, again 1491, 1484, 2084, 2083, 2082, 2046, 2048, 2049, 2050, 2037, 2014, 2016 in village Nizigarh (Talcher Town).

line passes through plot Nos. 2016, 2035, 2036, 1937, 1936, 1933 1913, 1907, 1878, 1876, 1874, 1873, 1850, 1849, 1834, 1836 Eastern boundary of plot Nos. 1834 and 1793 then through plot Nos. 1834, 1716, 1723, 1722, 1698, 1697, 1696, 1693, 1676, 1661, 1662 in village Nizigarh (Talcher Town).

C-D

line passes through plot numbers 1662, 1665, 1666, 1672, 1596, in village Nizigarh (Talcher Town), then through plot Nos. 39, 40, 41 43 44, 47, 48 49, 17 in village Rani Park (R.F.)

D-A

line passes through plot numbers 17, 50, 57 in village Rani Park (R.F.) and meets at starting point 'A'.

[No. 19/21/81-CL]

का०भा० 135.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपायद्व अनुसूची में उल्लिखित भूमि में कोयला अभिव्रात किए जाने की संभावना है;

अतः, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) द्वारा प्रवर्त शक्तियों का प्रयोग करते हुए, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है;

2. इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक का निरीक्षण सेंट्रल कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) दरभंगा हाउस रांची के कार्यालय में या उपायुक्त, हजारीबाग (बिहार) के कार्यालय में अपना कोयला नियंत्रक, 1 काउन्सिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अधीन आने वाली भूमि में हितबद्ध सभी व्यक्ति, उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से 90 दिन के भीतर राजस्व अधिकारी, सेंट्रल कोलफील्ड्स लिमिटेड, दरभंगा हाउस, रांची को भेजेंगे।

अनुसूची

परेज खंड

(पश्चिमी बोकारो कोयला क्षेत्र)

रेखांकित सं० राष्०/78/81

तारीख 18-9-81

(पूर्वेक्षण किए जाने के लिए अधिसूचित भूमि)

क्रम सं०	ग्राम का नाम	थाना	थाना सं०	जिला	क्षेत्र एकड़ों में	टिप्पणियाँ
1	दुर्लक्षमार	मांझू	108	हजारीबाग	663.10	भाग
2	बारीसूम	मांझू	109	हजारीबाग	408.55	पूर्ण
3	उल्हारा	मांझू	111	हजारीबाग	278.35	पूर्ण
					कुल क्षेत्र	1350.00 एकड़ (लगभग)
					या	546.32 हेक्टर (लगभग)

सीमावर्जन :

- क-ख रेखा ग्राम उल्हारा तथा तापिंग, बारीसूम तथा तापिंग, और दुर्लक्षमार तथा तापिंग की सामान्य सीमा के, जो तापिंग उत्तरी कोयला खान के साथ भी भागतः सामान्य सीमा बनाती है, साथ-साथ जाती है।
- ख-ग रेखा ग्राम दुर्लक्षमार तथा परेज की भागतः सामान्य सीमा के साथ-साथ जाती है, फिर ग्राम दुर्लक्षमार से होकर खान बोर्ड रोड की भागतः दक्षिणी सीमा के, जो कोडला उत्तरी कोयला खान के साथ भी भागतः सामान्य सीमा बनाती है, साथ-साथ जाती है।
- ग-घ रेखा ग्राम दुर्लक्षमार और बेजी की भागतः सामान्य सीमा के जो कोडला उत्तरी कोयला खान के साथ भी भागतः सामान्य सीमा बनाती है, साथ-साथ जाती है।
- घ-ङ रेखा ग्राम दुर्लक्षमार से होकर जाती है जो तापिंग पश्चिमी बोकारो कोयला खान की पश्चिमी सीमा के साथ भी भागतः सामान्य सीमा बनाती है।
- ङ-च रेखा ग्राम दुर्लक्षमार तथा बसन्तपुर की भागतः सामान्य सीमा, ग्राम बारीसूम तथा बसन्तपुर की सामान्य सीमा के (जो चूडुआ नदी की भागतः मध्य रेखा भी है) साथ-साथ जाती है।
- च-क रेखा ग्राम बारीसूम और राजसा और उल्हारा और मिष्ठा की सामान्य सीमा के, जो तापिंग उत्तरी कोयला खान की भी भागतः सामान्य सीमा बनाती है, साथ-साथ जाती है।

[सं० 19/112/81—सी०एल०]

S.O. 135.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan of the area covered by this notification can be inspected at the Office of the Central Coalfields Limited (Revenue Section), Darbhanga House, Ranchi or at the Office of the Deputy Commissioner, Hazarigagh (Bihar) or at the Office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Revenue Officer, Central Coalfields Limited, Dharbhanga House Ranchi, within 90 days from the date of publication of this notification.

SCHEDULE

Drg. No. Rev/78/81					
Parej Block (West Bokaro Coalfield)		Dated 18-9-1981 (Lands notified for prospecting)			
Sl. No.	Name of village	Thana	Thana number	District	Area in acres
1.	Durukasmar	Mandu	108	Hazari-bagh	663.10
2.	Barisum	-do-	109	-do-	408.55
3.	Ulhara	-do-	111	-do-	278.35
Total area		1350.00 acres (approximately)			
or		546.32 hectares (approximately)			

Boundary description :—

- A-B line passes along common boundary of villages Ulhara & Taping, Barisum & Taping, and Durukasmar and Taping, which also forms part common boundary with Taping North Colliery.
- B-C line passes along part common boundary of villages Durukasmar and Parej, then along part southern

boundary of Mines Board Road through village Durukasmar which also forms part common boundary with Kedla North Colliery.

- C-D line passes along part common boundary of villages Durukasmar and Banji which also forms part common boundary with Kedla North Colliery.
- D-E line passes through village Durukasmar which also forms part common boundary with the Western boundary of Taping West Bokaro Colliery.
- E-F line passes along the part common boundary of villages Durukasmar & Basantpur, common boundary of villages Barisam & Basantpur (which is also part central line of Chutua River).
- F-A line passes along common boundary of villages Barisam & Rauta and Ulhara & Pindra which also forms part common boundary with Taping North Colliery.

[No. 19/112/81-CL]

नई दिल्ली, 30 दिसम्बर 1982

कां.प्र. 136.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपान्वद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है ;

अतः, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक का निरीक्षण वेस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) कोल इस्टेट, सिविल लाइन्स, मागपुर-440001 के कार्यालय में या कलकत्ता सम्बलपुर (उड़ीसा राज्य) के कार्यालय में भ्रमण कोयला नियंत्रक, 1 काउन्सिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अधीन आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चाटों और अन्य वस्तावों को, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से 90 दिन के भीतर राजस्व अधिकारी वेस्टर्न कोलफील्ड्स लिमिटेड, कोल इस्टेट सिविल लाइन्स, मागपुर-440001 को भेजेंगे।

अनुसूची

ब्लॉक सं० 6

आई बी बैली कोलफील्ड्स जिला सम्बलपुर (उड़ीसा) अनुसूची क

रेखांक सं० जी एम/आई बी की/12 तारीख 30-8-80
(जिसमें पूर्वेक्षण के लिए भूमि उपदक्षित की गई है)

क्रम संख्या	ग्राम	अव्योचस्त	तहसील	जिला	क्षेत्र एकड़ में	टिप्पणियाँ
1	2	3	4	5	6	7
1.	फुडालोई	.	5	जासगुडा	सम्बलपुर	भाग
2.	सखनपुर	.	6	"	"	पूर्ण
3.	मौली बेरना	.	7	"	"	पूर्ण
4.	सिंगारपुर	.	12	"	"	पूर्ण
5.	बाप दुंवा	.	13	"	"	पूर्ण
6.	चोकिन्दा	.	14	"	"	पूर्ण
7.	बेहुराम	.	15	"	"	पूर्ण
8.	मुसुरालोई	.	26	"	"	पूर्ण

1	2	3	4	5	6	7
9. खालियापाली	.	27	जासगुडा	सम्बलपुर	333.61	पूर्ण
10. करलाओरी	.	28	"	"	595.56	पूर्ण
11. खुन्ता महाल	.	29	"	"	197.21	भाग
12. उड्डा	.	30	"	"	964.33	भाग
13. टिंगिसमाल	.	32	"	"	1189.45	भाग
14. खैराकुनी	.	33	"	"	654.01	भाग
15. छरला	.	35	"	"	585.00	भाग
					19556.98 एकड़ (लगभग)	
16. प्रारक्षित बन	.		"	"	1800.00	भाग
					कुल क्षेत्र 21356.98 एकड़ (लगभग)	
					या 8502.40 हेक्टर (लगभग)	

अनुसूची
ब्लॉक सं० 7
आई बी वीली कोल फील्ड
[जिला सम्बलपुर (उड़ीसा)]

रेखांक सं० जी एम/आई बी वी/2, तारीख 30-8-80
(जिसमें पूर्वक्षेत्र के लिए भूमि उपवर्गित की गई है)

अनुसूची 8

क्रम सं०	ग्राम	बन्धोवस्त सं०	तहसील	जिला	क्षेत्र एकड़ में	टिप्पणियां
1	2	3	4	5	6	7
1. पतराधल्ली	.	29	जासगुडा	सम्बलपुर	500.00	भाग
2. माल्वा	.	30	"	"	320.00	भाग
3. तालाबीरा	.	3	सम्बलपुर सदर	"	1180.00	भाग
4. खिडा	.	2	"	"	1960.00	भाग
					कुल क्षेत्र 3960.00 एकड़ (लगभग)	
					या 1602.56 हेक्टर (लगभग)	

सीमा वर्णन ब्लॉक सं० 8

- क-ख रेखा लिलाटी नामा के दक्षिणी तट पर बिन्दु क से प्रारम्भ होती है और ग्राम खैराकुनी, टिंगिसमाल और खुन्ता महाल से होकर, जो का० प्रा० सं० 22 (अ), तारीख 9-1-1981 द्वारा कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 की धारा 9(1) के अधीन अधिसूचित ब्लॉक 2 की साक्षी सीमा भी है, जाती है, और ग्राम खुन्ता महाल में बिन्दु "ख" पर मिलती है।
- ख-ग रेखा ग्राम खुन्ता महाल में बिन्दु "ख" से प्रारम्भ होती है और ग्राम उड्डा, छरला से होकर का० प्रा० सं० 22 (अ) तारीख 9-1-1981 द्वारा कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 की धारा 9(1) के अधीन अधिसूचित ब्लॉक 2 की दक्षिणी सीमा के साथ साथ भी जाती है और छरला तथा खादम की साक्षी सीमा पर बिन्दु "ग" पर मिलती है।
- ग-घ रेखा बिन्दु ग से प्रारम्भ होती है और ग्राम खादम तथा छरला, कसुरालोई, तेलन पाली तथा कसुरालोई, प्रारक्षित बन तथा कसुरालोई की साक्षी सीमा के साथ-साथ जाती है और ग्राम कुसुरालोई तथा प्रारक्षित बन की साक्षी सीमा पर बिन्दु "घ" पर मिलती है।
- घ-ङ रेखा बिन्दु "घ" से प्रारम्भ होती है और प्रारक्षित बन से होकर जाती है और ग्राम भूटिया तथा प्रारक्षित बन की साक्षी सीमा पर बिन्दु ङ पर मिलती है।
- ङ-च रेखा बिन्दु "ङ" से प्रारम्भ होती है और ग्राम भूटिया तथा प्रारक्षित बन, ग्राम रेमडा तथा प्रारक्षित बन की साक्षी सीमा के साथ-साथ जाती है और ग्राम रेमडा, ग्राम बड़ियापली तथा प्रारक्षित बन के विसंगम बिन्दु पर बिन्दु "च" पर मिलती है।
- च-छ रेखा बिन्दु च से प्रारम्भ होती है और ग्राम बड़ियापली, तथा प्रारक्षित बन, ग्राम बेहरामल तथा ग्राम बड़ियापली की साक्षी सीमा के साथ-साथ और ग्राम बहुरामल, बागमुंडा, सिंगारपुर की साक्षी सीमा और हीराकुंड जलाशय की उत्तरी सीमा के साथ-साथ जाती है और ग्राम सिंगारपुर और हीराकुंड जलाशय की उत्तरी सीमा की साक्षी सीमा पर बिन्दु "छ" पर मिलती है।
- छ-ज रेखा बिन्दु "छ" से प्रारम्भ होती है और ग्राम सिंगारपुर बेरना, सिंगारपुर तथा भानाखोल सिंगारपुर तथा खोलजमकरी की साक्षी सीमा के साथ-साथ जाती है और ग्राम खोलजमकरी, सिंगारपुर तथा लखनपुर के विसंगम बिन्दु पर बिन्दु "ज" पर मिलती है।
- ज-झ रेखा बिन्दु "ज" से प्रारम्भ होती है और ग्राम लखनपुर तथा पिकोल, ग्राम मोली बेरना तथा पिकोल, और फिर लखनपुर तथा पिकोल की साक्षी सीमा के साथ-साथ जाती है और लखनपुर, पिकोल तथा प्रसर्वित क्षेत्र के विसंगम बिन्दु पर बिन्दु "झ" पर मिलती है।
- झ-ञ रेखा बिन्दु "झ" से प्रारम्भ होती है और ग्राम लखनपुर तथा प्रसर्वित क्षेत्र की साक्षी सीमा के साथ-साथ जाती है और ग्राम लखनपुर, कुवालोई तथा प्रसर्वित क्षेत्र के विसंगम बिन्दु पर बिन्दु "ञ" पर मिलती है।

- म-ट रेखा बिन्दु "अ" से प्रारम्भ होती है और ग्राम कुदालोई में से होकर और ग्राम कुदालोई तथा खैराकुनी को भागतः साक्षी सीमा के साथ-साथ जाती है और ग्राम कुदालोई जोरबाग तथा खैराकुनी के त्रिसंगम बिन्दु पर बिन्दु "ट" पर मिलती है।
- ट-क रेखा बिन्दु "ट" से प्रारम्भ होती है और ग्राम जोरबाग तथा खैराकुनी की साक्षी सीमा के साथ साथ जाती है और प्रारम्भिक बिन्दु "क" पर मिलती है।
सीमा वर्णन ब्लाक सं 7
- ट-ठ रेखा झरसुगुडा तहसील के ग्राम पलापली के भीतर बिन्दु "ट" से प्रारम्भ होती है और ग्राम पलापली तथा माल्वा से होकर जाती है और ग्राम माल्वा और कुम्हारी की साक्षी सीमा पर बिन्दु "ठ" पर मिलती है।
- ठ-ड रेखा बिन्दु "ठ" से प्रारम्भ होती है और ग्राम माल्वा तथा कुम्हारी, खिडा तथा तराई केला खिडा तथा लोहारानी कछार जो मैदान नदी का मध्य भाग भी है, की साक्षी सीमा से होकर जाती है और ग्राम तराई केला तथा ठेलकोलाई की साक्षी सीमा पर बिन्दु "ड" पर मिलती है।
- ड-ड रेखा बिन्दु "ड" से प्रारम्भ होती है और ग्राम ठेलकोलाई तथा खिडा, लापंगा तथा खिडा बासीमल तथा खिडा की साक्षी सीमा के साथ-साथ जाती है और ग्राम बासीमल तथा खिडा की साक्षी सीमा पर बिन्दु "ड" पर मिलती है।
- ड-ट रेखा बिन्दु "ड" से प्रारम्भ होती है और ग्राम खिडा, तलबीरा और पलापली से होकर जाती है और ग्राम पलापली के भीतर प्रारम्भिक बिन्दु "ट" पर मिलती है।

[सं० 19/118/81-सी०एल०]

स्वर्ण सिंह, प्रवर सचिव

New Delhi the 30th December, 1981

S.O. 136.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the schedule hereto annexed;

Now therefore in exercise of the powers conferred by sub-section (i) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan of the area covered by this notification can be inspected at the Office of the Western Coalfields Limited (Revenue Section) Coal Estate Civil Lines Nagpur-440001 or at the Office of the Collector Sambalpur (Orissa State) or at the Office of the Coal Controller 1, Council House Street Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Revenue Officer Western Coalfields Limited Coal Estate Civil Lines, Nagpur-440001 within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE
Block NO VI
IB VALLEY COALFIELD
DISTRICT SAMBALPUR (ORISSA)

Drawing No. GM/IBV/2 dated 30-8-80.
(showing land notified for prospecting)

SCHEDULE 'A'

Sl. Village No.	Settlement No.	Tehsil	District	Area in acre	Remarks	
1	2	3	4	5	6	7
1. Kudaloi	5	Jarsuguda	Sambalpur	630.00	Part	
2. Lakhanpur	6	-do-	-do-	4076.91	Full	
3. Mauliberna	7	-do-	-do-	608.65	Full	
4. Singarpur	12	-do-	-do-	1438.11	Full	
5. Bagmunda	13	-do-	-do-	2639.57	Full	
6. Soldia	14	-do-	-do-	1642.03	Full	
7. Beheramal	15	-do-	-do-	1614.40	Full	
8. Kusuraloi	26	-do-	-do-	2387.94	Full	
9. Khaliapali	27	-do-	-do-	333.61	Full	
10. Karlajori	28	-do-	-do-	595.56	Full	
11. Khuntamahul	29	-do-	-do-	197.21	Part	
12. Ubda	30	-do-	-do-	764.53	Part	
13. Tingismal	32	-do-	-do-	1189.45	Part	
14. Khairakuni	33	-do-	-do-	654.01	Part	
15. Chharle	35	-do-	-do-	585.00	Part	
				19556.98 acres		
				(approximately)		
16. Reserve Forest		-do-	-do-	1800.00	Part	
Total Area:				21356.98 acres		
				(approximately)		
			OR	8502.40 hectares		
				(approximately)		

SCHEDULE
BLOCK NO. VII
IB VALLEY COALFIELD
DISTRICT SAMBALPUR (ORISSA)

Drawing No. SM/IBV/2 dated 30-8-80
(showing land notified for prospecting)

SCHEDULE 'B'

Sl. No.	Village	Settlement No.	Tehsil	District	Area in acre	Remarks
1	2	3	4	5	6	7
1.	Patrapali	29	Jarsuguda	Sambalpur	500.00	Part
2.	Malda	30	-do-	-do-	320.00	Part
3.	Talabira	3	Sambalpur Sadar	-do-	1180.00	Part
4.	Khinde	2	-do-	-do-	1960.00	Part
Total Area:					3960.00 acres (approximately)	
					OR 1602.56 hectares (approximately)	

Boundary Description : BLOCK NO. VI

A-B	Line starts from a point 'A' on the southern bank of Lilari Nullah and passes through villages Khairakuni, Tingmal and Khunta Mahul which is also a common boundary of Block II notified under Section 9(1) of the Coal Bearing Areas (Acquisition and Development) Act, 1957 vide S.O. No. 22(E) dated 9-1-1981 and meets at point 'B' in village Khunta Mahul.
B-C	Line starts from point 'B' in village Khunta Mahul and passes through villages Ubda, Chharla and also along the southern boundary of Block II notified under Section 9(1) of the Coal Bearing Areas (Acquisition and Development) Act, 1957 vide S.O. No. 22(E) dated 9-1-1981 and meets at point 'E' on the common boundary of Chharla and Khadam.
C-D	Line starts from point 'C' and passes along common boundary of villages Khadam & Chharla, Kusuraloi, Telenuki & Kusuraloi, Reserve Forest & Kusuraloi and meets at point 'D' on the common boundary of village Kusuraloi and Reserve Forest.
D-E	Line starts from point 'D' and passes through Reserve Forest and meets at point 'E' on the common boundary of village Bhutia and Reserve Forest.
E-F	Line starts from point 'E' and passes along the common boundary of village Bhutia & Reserve Forest, village Remda & Reserve Forest and meets at point 'F' on the trijunction points of village Remda, village Barhiapli and Reserve Forest.
-FG	Line starts from point 'F' and passes along common boundary of village Barhiapli and Reserve Forest, village Behermal and village Barhiapli and along the common boundary of villages Behermal, Bagmunda, Singarpur and northern boundary of Hirakund Reservoir and meets at point 'G' on the common boundary of village Singarpur and northern boundary of Hirakund Reservoir.
G-H	Line starts from point 'G' and passes along the common boundary of villages Singarpur Thebra, Singarpur & Bhanarkhol, Singarpur & Kholjamkari and meets at trijunction point of villages Kholjamkari, Singarpur and Lakhanpur.
M-I	Line starts from point 'H' and passes along the common boundary of villages Lakhanpur and Pikol, village Mauliberna & Pikol, and again Lakhanpur & Pikol and meets at point 'I' on the trijunction point of villages Lakhanpur, Pikol and un-surveyed area.
I-J	Line starts from point 'I' and passes along the common boundary of village Lakhanpur and un-surveyed area and meets at point 'J' on the trijunction point of villages Lakhanpur, Kudaloi and un-surveyed area.
J-K	Line starts from point 'J' and passes through village Kudaloi and partly along common boundary of villages Kudaloi and Khairakuni and meets at point 'K' on trijunction point of villages Kudaloi, Jorabaga and Khairakuri.
K-A	Line starts from point 'K' and passes along the common boundary of villages Jorabaga and Khairakuri and meets at starting point 'A'.

BLOCK NO. VII

L-M	Line starts from point 'L' within village Patrapali of Jarsuguda Tehsil and passes through villages Patrapali and Malda and meets at 'M' on the common boundary of villages Malda and Kumhari.
M-N	Line starts from point 'M' and passes along the common boundary of villages Malda and Kumhari, Khinda and Taraikela, Khinda & Loharani Kachar which is also the middle of Bhedan River and meets at point 'N' on the common boundary of villages Taraikela and Thalkoloi.
N-O	Line starts from point 'N' and passes along the common boundary of villages Thalkoloi and Khinda, Lapanga and Khinda, Bansimal and Khinda and meets at point 'O' on the common boundary of villages Bansimal and Khinda.
O-L	Line starts from point 'O' and passes through villages Khinda, Talabira and Patrapali and meets at starting point 'L' within village Patrapali.

[No. 19/116/81-CL.]
SWARAN SINGH, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 24 दिसम्बर, 1981

का० प्रा० 137.—केन्द्रीय भारतीय चिकित्सा परिषद् अधिनियम, 1970 (1970 का 48) की धारा 14 की उप-धारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए भारत सरकार केन्द्रीय भारतीय चिकित्सा परिषद् के साथ परामर्श करके एतद्वारा उक्त अधिनियम की दूसरी अनुसूची में आगे और निम्नलिखित संशोधन करती है: अर्थात् : उक्त अनुसूची के भाग 1 में मदुरै विश्वविद्यालय से संबंधित क्रम सं० 98 के सामने कालम 2, 3 और 4 की प्रविष्टियों "बैचलर ऑफ़ मेडिसिन (सिद्धा) बी० आई० एम०... 1966 से आगे" के बाद निम्नलिखित प्रविष्टियाँ की जायेंगी; अर्थात्

"डॉक्टर मेडिसिन (सिद्धा) एम० डी० (सिद्धा) 1975 से आगे"

[सं० बी० 26015/5/81-ए० ई०]

हिम्मत सिंह धकालिया, प्रवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 24th December, 1981

S.O. 137.—In exercise of the powers conferred by sub-section (2) of section 14 of the Indian Medicine, Central Council Act, 1970 (48 of 1970) the Central Government, after consulting the Central Council of Indian Medicine, hereby makes the following further amendment in the Second Schedule to the said Act, namely :—

In Part I of the said Schedule, against serial number 98 relating to University of Madurai, after the entries "Bachelor of Indian Medicine (Siddha) B.I.M...from 1966 onwards" in columns 2, 3 and 4 the following entries shall be inserted namely :—

"Doctor of Medicine (Siddha) M.D. (Siddha) from 1975 onwards."

[No. V-26015/5/81-AE]

H. S. DHAKAALIA, Under Secy.

(स्वास्थ्य विभाग)

नई दिल्ली, 29 दिसम्बर, 1981

का० प्रा० 138.—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय चिकित्सा परिषद् (स्नातकोत्तर चिकित्सा शिक्षा समिति) नियम, 1961 में संशोधन करने के लिए एतद्वारा निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का नाम भारतीय चिकित्सा परिषद् (स्नातकोत्तर चिकित्सा शिक्षा समिति) संशोधन नियम, 1981 है।

(2) ये सरकारी राजपत्र में प्रकाशित होने की तारीख को प्रवृत्त होंगे।

2. भारतीय चिकित्सा परिषद् (स्नातकोत्तर चिकित्सा शिक्षा समिति) नियम, 1961 के नियम 6 में "परिषद् का अध्यक्ष" के स्थान पर "समिति का अध्यक्ष" शब्द प्रतिस्थापित किए जाएँ।

[संख्या बी० 11019/2/81-एम० ई० (मीडि)]

प्रकाश चन्द्र जैन, प्रवर सचिव

(Department of Health)

New Delhi, the 29th December, 1981

S.O. 138.—In exercise of the powers conferred by section 32 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby makes the following rules to amend the Indian Medical Council (Post Graduate Medical Education Committee) Rules, 1961, namely :—

1. (1) These rules may be called the Indian Medical Council (Post Graduate Medical Education Committee) Amendment Rules, 1981.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 6 of the Indian Medical Council (Post Graduate Medical Education Committee) Rules, 1961, for the words "President of the Council", the words, the Chairman of the Committee shall be substituted.

[No. V-11019/2/81-M.E. (Policy)]
P. C. JAIN, Under Secy.**इस्पात और खान मंत्रालय**

(इस्पात विभाग)

नई दिल्ली, 30 दिसम्बर, 1981

का० प्रा० 139.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भारत रिफ्रेक्ट्रीज लि० के भंडारीदह रिफ्रेक्ट्रीज प्लांट, पो० भंडारीदह, जिला गिरिडीह को, जिसके कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[संख्या ई०-11011/4/81-हिन्दी]

दिनेश चन्द्र बाजपेयी, निदेशक

MINISTRY OF STEEL AND MINES

(Department of Steel)

New Delhi, the 30th December, 1981

S.O. 139.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies Bhandari Dah Refractories Plant, P.O. Bhandari Dah Distt. Giridih of Bharat Refractories Limited, the staff whereof have required the working knowledge of Hindi.

[No. E-11011/4/81-Hindi]
D. C. BAJPAI, Director**शिक्षा और संस्कृति मंत्रालय**

(संस्कृति विभाग)

नई दिल्ली, 16 दिसम्बर, 1981

का० प्रा० 140.—राजभाषा (संघ के सरकारी प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारतीय पुरातत्व सर्वेक्षण के निम्नलिखित कार्यालयों को, जिनके स्टाफ ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

(1) सहायक अधीक्षक पुरातत्वविद,
पुरातत्व संग्रहालय,
भारतीय पुरातत्व सर्वेक्षण,
खजुराहो, छत्तरपुर,
मध्य प्रदेश।

(2) सहायक अधीक्षक पुरातत्वविद,
पुरातत्व संग्रहालय,
भारतीय पुरातत्व सर्वेक्षण,
सांची,
रायसेन,
मध्य प्रदेश।

(3) अधीक्षक पुरातत्वविद,
भारतीय पुरातत्व सर्वेक्षण,
प्रागितिहास शाखा,
पुराना उज्जैन न्यायालय,
नगपुर।

[सं० एफ० 28-2/81—सामान्य]
एम० लक्ष्मीनारायण, उप सचिव

MINISTRY OF EDUCATION AND CULTURE

(Department of Culture)

New Delhi, the 16th December, 1981

S.O. 140.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976 the Central Government hereby notifies the following offices of the Archaeological Survey of India, the staff whereof have acquired the working knowledge of Hindi :—

1. Assistant Superintending Archaeologist,
Archaeological Museum,
Archaeological Survey of India,
Khajuraho,
Chhatarpur, M.P.
2. Assistant Superintending Archaeologist,
Archaeological Museum,
Archaeological Survey of India,
Sanchi,
Raipur, M.P.
3. Superintending Archaeologist,
Archaeological Survey of India,
Pre-History Branch,
Old High Court Building,
Nagpur.

[No. F. 28-2/81-Genl.]

M. LAKSHMINARAYANA, Dy. Secy.

नौबहन और परिवहन मंत्रालय

(नौबहन पक्ष)

नई दिल्ली, 30 दिसम्बर, 1981

कां.सां. 141 :—शासकीय गोपनीयता अधिनियम 1923 (1923 का 19) की धारा 2 की उपधारा (8) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा दीपघर तथा दीपपोत विभाग के अधीन स्थापनाओं को उक्त अधिनियम के प्रयोजन के लिए निम्न स्थान घोषित करती है जिनके नाम निम्नलिखित हैं अर्थात् :

- (i) स्थापनाओं के नाम दीपघर कर्मशाला प्रशिक्षण केन्द्र तथा जड़ प्रयोगशाला, दीपघर तथा दीपपोत विभाग कलकत्ता ।
- (ii) स्थान का नाम जहाँ पी 2/2/सी 2—तारातोला रोड, कलकत्ता-24 पर स्थान स्थित है
- (iii) मुहल्ला सामान्यतः मेला डिपो के नाम से जाना जाता है ।
- (iv) पुलिस स्टेशन गार्डन रीच पुलिस स्टेशन
- (v) जिला 24 परगना
- (vi) सरमा अथवा क्षेत्र का 4014.87 वर्ग मीटर के द्वारा क्षेत्र अन्य विवरण कथित है :—
क—पूर्व की ओर—तारातोला रोड,
ख—गार्डन रीच नगर पालिका के कूड़ा फेंकने का स्थान, पश्चिम की ओर मेला डिपो तथा दक्षिण की ओर मैसर्स शिपरिसेयर्स की खुली जगह ।

[सं० एस डब्ल्यू/एल एस मो-12/81]

विश्वनाथ शर्मा, अधीक्षक सचिव

MINISTRY OF SHIPPING AND TRANSPORT

(Shipping Wing)

New Delhi, the 30th December, 1981

S.O. 141.—In exercise of the powers conferred by clause (c) of sub-section (8) of section 2 of the Official Secrets Act 1923 (19 of 1923), the Central Government hereby declares the following installations under the Department of Lighthouses and Lightships, the particulars of which are given below, to be prohibited places for the purposes of the said Act, namely:

- (i) Names of the installations Light house Work shop Training Centre and Optical Laboratory, Deptt. of Light-houses and Lightships, Calcutta.
- (ii) Name of place where situated. —P2/2/C2/-Teratolla Road, Calcutta-24.
- (iii) Locality —Commonly known as Maila Depot (Near) Paharapur, Calcutta-24.
- (iv) Police Station —Garden Reach Police Station
- (v) District —24 Parganas
- (vi) Boundary or other description of the area. —4014.87 Sq. Metres.
The area is bounded by :—
(a) Taratolla Road—on the Eastern side;
(b) Maila Depot—on the Western side; (Dumping ground of Garden Reach Municipality.)
(c) Scindia Workshops—on the Northern side; and
(d) Open Yard of M/s. Ship Repairers—on the Southern side.

[No. SW/LLO-12/81]

V. N. SHARMA, Under Secy.

संस्कृति विभाग

भारतीय पुरातत्व सर्वेक्षण

नई दिल्ली, 1 जनवरी, 1982

(पुरातत्व)

कां.सां. 142.—केन्द्रीय सरकार की राय है कि इससे उपायय प्रमुखी में विनिश्चित प्राचीन संस्मारक राष्ट्रीय महत्व के हैं;

अतः केन्द्रीय सरकार, प्राचीन संस्मारक तथा पुरातत्त्व स्थल और अवशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त प्राचीन संस्मारकों को राष्ट्रीय महत्व का घोषित करने के अपने प्राणय की दो मास की सूचना देती है ।

केन्द्रीय सरकार, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से दो मास की अवधि के भीतर उक्त प्राचीन संस्मारकों में हितवद्ध किसी भी व्यक्ति से प्राप्त किसी आक्षेप पर विचार करेगी ।

अनुसूची						7	8	9	10
राज्य	जिला	तहसील	भवस्थान का नाम	संस्मारक का नाम	संरक्षण के अधीन किए जाने वाले प्लॉट सं०				
1	2	3	4	5	6				
1. गुजरात	अहमदाबाद	तालुका नगर	हल्का बरिया-पुर 11	बरिया-पुर गेट	सी०एस०सं० 4352	3. 100.34 वर्ग मी०	उत्तर : खुला स्थान पूर्व : मुख्य सड़क दक्षिण : खुला स्थान पश्चिम : सड़क	अहमदाबाद नगर निगम	—
2. गुजरात	अहमदाबाद	तालुका नगर	हल्का कालूपुर	सी०एस०सं० 4577	कालूपुर 1 अहमदाबाद गेट नगर	4. 114 वर्ग मी०	उत्तर : खुला स्थान दक्षिण : खुला स्थान सी०एस० सं० 1719	अहमदाबाद नगर निगम	—
3. गुजरात	अहमदाबाद	तालुका नगर	हल्का बरियापुर 1	प्रेमाभाट गेट	सी०एस०सं० 5157		पूर्व : सड़क दक्षिण : खुला स्थान सी०एस० सं० 1719 पश्चिम : सड़क		
4. गुजरात	अहमदाबाद	तालुका नगर	हल्का खाडिया 1	सारांगपुर गेट	सी०एस०सं० 4354				

[संख्या 2/30/76-एम]

डा० (श्रीमती) देवला मित्र, महानिदेशक और पदेन संयुक्त सचिव

DEPARTMENT OF CULTURE
ARCHEOLOGICAL SURVEY OF INDIA
New Delhi, the 1st January, 1982
(ARCHAEOLOGY)

S.O. 142.—Whereas the Central Government is of opinion that the ancient monuments specified in the Schedule annexed hereto is of national importance ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives two months' notice of its intention to declare the said ancient monuments to be of national importance.

Any objection which may be received within a period of two months from the date of publication of this notification in the Official Gazette from any person interested in the said ancient monuments will be taken into consideration by the Central Government.

SCHEDULE

State	District	Tehsil	Locality	Name of monument	Revenue plot numbers to be included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9	10
1. Gujarat	Ahmedabad	City Taluka	Ward Dariapur	Dariapur Gate -II Ahmedabad City	C.S. No. 4352	183.95 Sq.Mts.	North: _____ Road East: _____ Road South: _____ Road West: _____ Road _____	Ahmedabad Municipal Corporation	—

1	2	3	4	5	6	7	8	9	10
2. Gujarat	Ahmedabad	City Taluka	Ward Kalupur-I Ahmedabad City	Kalupur Gate	C.S. No. 4577	65.22 Sq. Mts.	North : Fortification Wall East:—Road South:—Fortification wall West:—Road.	Ahmedabad Municipal Corporation	—
3. Gujarat	Ahmedabad	City Taluka	Ward Darlapur-I Ahmedabad City	Premabhat Gate	C.S. No. 5157	100.34 Sq. Mts.	North:—Open Space East:—Main Road South:—Open Space West:—Road	Ahmedabad Municipal Corporation	—
4. Gujarat	Ahmedabad	City Taluka	Ward Khadia-I Ahmedabad City	Sarangpur Gate	C.S. No. 4354	114 Sq. Mts.	North:—Open Space and C.S.No. 601 East:—Road South:—Open Space and C.S. No. 1719 West:—Road	Ahmedabad Municipal Corporation	—

[No. 2/30/76-M]

D. MITRA, Director General and
Ex-Officio Joint Secy.**पर्यटन और नागर विमानन मंत्रालय**

नई दिल्ली, 30 दिसम्बर, 1981

का०आ० 143 .—वायुयान नियम, 1937 के नियम 8 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा विमान क्षेत्र पर ड्यूटी पर तैनात कास्टेबल तथा ऊपर के रैंक के पुलिस अधिकाधिकारियों को, विमान पर चढ़ने वाले यात्रियों की जाँच करने और उन्हें पकड़ने के लिये प्राधिकृत करती है।

[फा० सं० ए० बी० 11012/2/71-ए]
एस० एकम्बरम, निदेशक**MINISTRY OF TOURISM AND CIVIL AVIATION**

New Delhi, the 30th December, 1981

S.O. 143.—In exercise of the powers conferred by rule 8 A of the Aircraft Rules, 1937, the Central Government hereby authorises the police officers of the rank of Constable and above on duty at the airport to conduct searches and seizure on persons boarding an aircraft.

[F. No. Av. 11012/2/71-A]
S. EKAMBARAM, Director**संचार मंत्रालय**

(डाक तार बोर्ड)

नई दिल्ली, 31 दिसम्बर, 1981

का०आ० 144 .—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम, 1950 के नियम 434 के खंड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने पब्लिक इंटरम टेलीफोन केन्द्र में दिनांक 16-1-82 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-4/81-पीएचबी]

MINISTRY OF COMMUNICATIONS

(P & T Board)

New Delhi, the 31st December, 1981

S.O. 144.—In pursuance of para (a) of Section III of Rule 434 of India Telegraph Rules, 1951, as introduced by S.O. No. 62/ dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies 16-1-1982 as the date on which the Measured Rate System will be introduced in Pavoorchatram Telephone Exchange, Tamil Nadu Circle.

[No. 5-4/81-PHB]

का०आ० 145 .—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम, 1951 के नियम 434 के खंड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने आर० आर० नगर टेलीफोन केन्द्र में दिनांक 16-1-82 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-4/81-पीएचबी]

S.O. 145.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies 16-1-1982 as the date on which the Measured Rate System will be introduced in Ramasamyrajanagar Telephone Exchange, Tamil Nadu Circle.

[No. 5-4/81-PHB]

नई दिल्ली, 1 जनवरी 1982

का०आ० 146 .—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम, 1951 के नियम 434 के खंड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने कोट्टप्पालम, चरपलक्केरी टेलीफोन केन्द्र में दिनांक 16-1-82 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-11/81-पीएचबी]

New Delhi, the 1st January, 1982

AWARD PART-II

S.O. 146.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies 16-1-1982 as the date on which the Measured Rate System will be introduced in Ottapalam and Cherplacherry Telephone Exchanges, Kerala Circle.

[No. 5-11/81-PHB]

का०प्रा० 147 :—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गये भारतीय तार नियम, 1951 के नियम 434 के खंड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने चिरयिन्कील, वक्कम टेलीफोन केन्द्र में दिनांक 16-1-1982 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है ।

[संख्या 5-11/81-पीएचबी]

S.O. 147.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies 16-1-1982 as the date on which the Measured Rate System will be introduced in Chiryinkil and Vakkom Telephone Exchanges Kerala Circle.

[No. 5-11/81-PHB]

का०प्रा० 148 :—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गये भारतीय तार नियम, 1951 के नियम 434 के खंड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने वेलूर कोच्चिन, केचरी टेलीफोन केन्द्र में दिनांक 16-1-1982 से प्रमाणित दर प्रणाली लागू करने का निश्चय किया है ।

[संख्या 5-11/81-पीएचबी]

भार०सी० कटारिया, सहायक महानिदेशक (पीएचबी)

S.O. 148.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies 16-1-1982 as the date on which the Measured Rate System will be introduced in Velur Cochin and Kechery Telephone Exchanges, Kerala Circle.

[No. 5-11/81-PHB]

R. C. KATARIA, Asstt. Director General (PHB)

MINISTRY OF LABOUR

New Delhi, the 15th December, 1981

S.O. 149.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government National Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the management of Reserve Bank of India and their workmen, which was received by the Central Government on the 9th December, 1981.

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT BOMBAY

PRESENT :

C. T. Dighe Esqr., B.A.(Hons), LL.M., Presiding Officer.

Reference No. NTB-1 of 1979

Employers in relation to Reserve Bank of India ;

AND

Their Class III Workmen.

APPEARANCES :

For the Employers

: Mr. G.B. Pai,
Sr. Advocate, Supreme Court.
Mr. F.D. Damania,
Advocate, High Court
I/B M/s. Crawford Bay-
ley & Co.
Mrs. Mayura Padma-
nabhan, Dy. Legal Ad-
viser.
Mr. M.A. Batki,
Asstt. Legal Adviser.
Mr. K.A. Najmi,
Legal Officer.
: Mr. Madan Phadnis,
Advocate.
: Mr. Devidas Pal.

For the All India Reserve Bank
Employees' Association
For the All India Reserve Bank
Workers' Organisation
For All India Reserve Bank
Karmachari Federation and All
India Reserve Bank Cash Depart-
ment Staff Union
For Reserve Bank Ex-Servicemen
Employees' Welfare Association
For All India Reserve Bank
Employees' Co-ordination Committee
For All India Reserve Bank
Scheduled Caste/Tribe
Employees' Federation
Industry

: Mr. C.L. Dudhia,
Advocate.
: Mr. C.L. Dudhia I/B
Mr. S.P. Palani Velu
: Mr. J.G. Gadkari,
Advocate.
: Mr. C.L. Dudhia I/B
Mr. Y.H. Appa,
Advocate.
: Banking.

Bombay, dated the 4th December, 1981.

AWARD PART-II

CHAPTER-XXVII

INTRODUCTION TO AWARD PART II

27.1. Part-I of the Award in the foregoing 26 Chapters dealt with finding out whether of the settlement arrived at between the Association and the Reserve Bank of India was just and fair. Looking to the tests for accepting such settlement, considering the nature of jurisdiction invested in the Tribunal, considering the allied topics arising in connection with the Ex-servicemen, Scheduled Castes/Scheduled Tribes employees or the employees in the Cash Department. I looked into the merits of different items upon which the settlement was arrived at. In certain parts, that settlement was inconclusive. That part had been discarded, but since on every other item agreed to by the two parties the settlement was found beneficial. Award was passed in terms of the settlement.

27.2 The following items were not covered by the settlement :—

8. Extra wages for overtime work.
13. Procedure for termination of employment and taking other disciplinary action.
19. Grain Shop facilities.
21. Compulsory insurance of employees in Cash Department.
22. Security measures in respect of employees in Cash Department.
25. Desirability of discontinuance/amendment of Reserve Bank of India (Staff) Regulations.
26. Rates of interest on housing loans and other advances granted to employees.
28. Internal machinery for resolving industrial disputes.
29. Wasteful and restrictive practices.
30. Work allotment to employees in exigencies.
31. Work procedure and work norm.
32. Mechanisation and computerisation.
33. Need for interim relief.
34. Any other matter connected with, or arising out of the foregoing matters.

Item No. 33 is interim relief which is already granted. It was argued that item Nos. 29 to 32 are connected and the major issue is relating to the introduction or expansion of Mechanisation and Computerisation. I find it convenient to have a separate Part of the Award viz. Part-III, as regards these items. Award Part-II will consist of the items not covered by the settlement and the inconclusive items of the settlement on which Part-I Award is passed.

27.3 The inconclusive items are as follows :

5. Family allowance.
12. Promotion.
15. Superannuation benefits, such as provident fund, gratuity and pension.
20. Welfare facilities like canteen, sports and recreation, holiday homes, etc.
23. Housing Loan, festival advance and marriage advance.
24. Discontinuance of guarantee fund in respect of employees in Cash Department.
27. Grievance procedure.

Regarding item No. 5 the subject to be discussed is the remaining part of the item concerning the grant of family Allowance to the Ex-servicemen. Regarding item No. 12 only a small portion is covered under which relief to some employees in the Cash Department is given. The whole of the item will now fall for discussion. Under item No. 15 was to prepare a Pension Scheme. That appears to have been done. But the question regarding the jurisdiction to grant pension and the desirability fall for consideration even before looking to the proposals made by the study group. Under item No. 23, Festival advance and Marriage advance are looked into. Similarly the maximum limit for the grant of Housing loan advance is fixed. Remaining discussion on this item can be done now. It look convenient to do it along with item No. 26. Similarly, item No. 27 can be discussed along with item No. 28, together with the drafts Annexures 'I' & 'II' attached to the settlement, 'Yellow Book' and item No. 24 can be discussed along with item No. 21. Item No. 13 and 25 can also be discussed together.

27.4 When hearing was resumed, the Reserve Bank of India filed their statements on 20th of July, 1981. On behalf of the Association one statement was filed on 20th of July, 1981, regarding items not covered by the settlement and another statement was filed on 1st July, 1981 on items in the settlement, but not in the Part-I Award.

27.5 The Co-ordination Committee had covered all the items in the initial statement filed on 11th January, 1980.

27.6 Ex-servicemen filed their statement on 1st July, 1981 covering the items Family Allowance and Housing Loan. They filed their further say on 10th August, 1981 also speaking of advance increments, promotion, superannuation benefits—pension and item No. 34.

27.7 On behalf of Scheduled Castes/Scheduled Tribes Federation additional statement was filed on 21st July, 1981.

27.8 Although the Organization had in their statement of 21st November, 1979 covered all the items, with special permission, supplementary statements were filed on 21st July, 1981 and 27th July, 1981. The first deals with City Compensatory Allowance and the second deals with promotion and pension.

27.9 The Cash Department filed their supplementary statement on 21st July, 1981 on item Nos. 12 and 34. Karamchari Federation together with the Cash Department Union filed another statement on 10th August, 1981, relevant to the Award Part-II and Part-III.

27.10 On 10th August, 1981 Organisation filed a rejoinder to the statement of claims of the Reserve Bank of India. And the Bank filed a reply to the statements of different Organisations and Associations on 17th August, 1981.

27.11 It appears convenient to treat Part II & Part III as continuous and therefore continuing numbers are given to the chapters and the pages. I would first look into the

items not covered by Part I and then take up for discussion the items which are partially looked into.

CHAPTER XXVIII

Item No. 8 : Extra wages for overtime work.

28.1 Under this item apart from dealing with payment of wages for extra work, we have to look to the connected topics of cushioning period, staggering of the work and the ceiling if any to be put on the overtime work. Cushioning period is the short period subsequent to the closing of the office hours which does not qualify for overtime payment. Ordinarily, any work which is done beyond working hours should be compensated by payment of overtime. However, for a long time no overtime was granted after the close of office hours if the employee had to work for about 1/2 hour only. Apparently cushioning period is provided to prevent workmen from going slow and prolonging their work just to earn overtime. However this period is counted for overtime when the work extends beyond the cushioning period. In other words, an employee who actually works for more than the cushioning period does not lose any time after the closing hours of duty. The cushioning period is now been reduced to 15 minutes by the Bipartite Settlement.

28.2 It is the say of the Association that the cushioning period should be abolished as this gives an opportunity to management to extract unpaid labour from the employees beyond working hours. According to the Bank, right from the Shastri Tribunal to Aiyer Arbitrator, all have accepted the necessity of cushioning period having regard to the nature of work in the banking industry. In para. 301 of the Shastri Award, it is expressly said that the provision for overtime should not result in the workmen going slow and prolonging their work for the purpose of earning overtime payment, and held that the cushioning effect of a short interval will obviate the danger apprehended. Similarly, Desai Tribunal provided that no overtime was to be paid for the cushioning period of first 1/2 hour beyond the normal working hours. But if the overtime is extended beyond the cushioning period and the staff actually worked during the cushioning period, the overtime was to be paid for the cushioning period also. In para. 11.8 and para. 11.9 of the Aiyer Award, the cushioning period of 1/2 hour prevailing at the relevant time was upheld. Under the Bipartite Settlement dated 7th October, 1970, between the Bank and the RBI Employees' Association, cushioning period was reduced from 1/2 hour to 15 minutes but for remittance duty the period from the close of the office hours to the actual departure of the train or steamer was treated as overtime work, provided the employee deputed on remittance duty actually accompanied the remittance.

28.3 Under the IBA Settlement dated 19th October, 1966, there is a provision for cushioning period of one quarter of an hour in case of Class III staff. Therefore, the submission of the Bank is that no case has been made out by the Association or Organisation or any other Union for abolishing the cushioning period and hence the cushioning period should be retained.

28.4 According to the Association the observations made in Aiyer Award and the observations in the Shastri Award relating to the cushioning period are contrary to the principles laid down by the Supreme Court in the case of Indian Oxygen reported in 1969 1 LLJ. 240.

28.5 As regards the staggering the Association has contested the statement of the Bank that staggering of duty hours in the Bank is necessary. It has also denied that there are areas in the working of the Bank where the work should commence after the commencement of the business hours and exceed beyond prescribed normal working hours on the ground that the business hours of the Bank are notified and the constituents are obliged to get the services within the prescribed hours only. It is said that the departments or sections of the Bank are assigned their duties to discharge the responsibilities arising out of the above obligations and as such the Bank by its own demand has accepted that it wants to persist the staggering with the sole intention of avoiding payment of overtime and not arising out of necessity. It is the submission of the Association that the Learned Aiyer Arbitrator approved the system of staggering in the Bank only in the cases of exigencies and not as a general rule of service conditions. Factually speaking, no such rule

can be made and no such directions can be validly given by the National Tribunal. The provisions of Section 9(a) of the Industrial Disputes Act require a notice of change to be given to the workmen concerned before altering his service conditions with regard to working hours. Therefore, the Honble Tribunal should direct and make an award abolishing staggering of duties of the Class III employees in the Bank. Other organisations are also opposed to the staggering

28.6 In this connection the say of the Bank is as follows. In para. 308 of the Shastri Award, the Shastri Tribunal recognised the right of the management of the Bank to introduce staggering of working hours. Under para. 11.4 of the Ayer Award, the Learned Arbitrator rejected the claim by the Reserve Bank Workers' Organisation that there should be no staggering for posts in respect of which there is heavy work in the beginning and at the close of working hours and that actual timing of work and of lunch time should be fixed by the Bank in consultation with the Unions.

Earlier under para. 13.1 and 13(a), the Desai Tribunal had recognised with approval the necessity for staggering of work in the Bank. It is the submission of the Bank that the staff attending to such type of work have been prescribed staggering duty hours as otherwise there will be wastage or staff in the early hours (when they will be idle for want of work) and payment of overtime for work rendered after normal office hours. It is the submission of the Bank that the staff on staggering duty are required to render the same hours of work as prescribed for other employees in Class III. Therefore, no change is required in respect to the practice followed by the Bank.

28.7 Regarding the demand of the Association for the ceiling of 120 hours of overtime for an employee in a calendar year, it is the submission of the Association that the following points are required to be taken into consideration while deciding the ceiling limit on payment of overtime.

(i) The Bank has not during the last several years recruited sufficient No. of employees commensurate with the increased workload in the Bank.

(ii) Bank's objection to ceiling on overtime is motivated as it wants to treat its employees as bonded labour. Present system of overtime with cushioning period, staggering working hours, low rate of payment helps the Bank to extract work from the existing employees even though there is need for large scale recruitment in the Bank.

(iii) The Bank is "State" under Article 12 of the Constitution of India and it is the duty of the Bank to follow Article 44 of the Constitution of India which provides for making provisions for securing just and human conditions of work. It is for this reason Association submits that no workman should be required to work overtime for more than 120 hours in any calendar year.

28.8 As regards the way in which an employee should be compensated for extra work, there are three well-known methods. One is giving a fixed allowance as overtime allowance, the other is to give a compensatory off and the third to make overtime payment at 1-1/2 times the rates or double the rates depending upon whether the overtime is done on a normal day or holiday. It is the demand of the Association that instead of following the 3 systems of compensation, the Tribunal should give direction to the Bank to follow uniformly cash payment at high rate for any overtime work done. The compensatory off or fixed allowance in lieu of overtime is not an adequate compensation for the strain on the health of the employees and the inconvenience they undergo for working beyond the prescribed working hours. The Association has contested the submission made by the Bank that it pays overtime for the work done by the employees on the holidays declared under Negotiable Instrument Act 1881 and has stated that though 17th January 1978 was declared a holiday under that Act no overtime allowance was paid by the Bank to its employees for the work done by them. Therefore the Association has submitted that the demands made by them are just and

28.9 The Organisation as well as the Karamachari Federation and Cash Department made out a special case for granting overtime allowance when a person is on remittance [141 GI/81-4.

duty or on mint duty. It is, however, worth noticing that while according to the Organisation the present rate of overtime allowance should be raised from 1-1/2 times of the daily pay to 2 times and to 3 times of pay on Sundays and holidays the Association has reconciled itself to the present payment of 1-1/2 times on working days and 2 times of pay on Sundays and holidays. It is the case of the Co-ordination Committee that overtime allowance be paid to all employees whose work exceeds beyond 6-1/2 hours on all the working days and 3-1/2 hours on Saturdays, which in fact is the present practice. However, according to the Co-ordination Committee, the rate of overtime allowance should be at the uniform rate of 200 per cent on all the days including normal working days or holidays. They are in favour of granting overtime allowance and not compensatory off to the employees deputed for mint duties.

28.10 It is the case of the Organisation that an employee required to undertake journey in connection with the Bank work on Sundays or holidays should be considered as on duty for that day and he compensated by payment of overtime allowance for doing 6-1/2 hours of duty on that day instead of paying him halting allowance.

28.11 In their statement of claims dated 14th January, 1980 the Karamachari Federation and Cash Department have said as follows:-

- 1 When the employee is required to undertake journeys on Sundays and holidays in connection with the Bank's work, he should be considered as on duty and should be compensated by payment of overtime.
- 2 The rates of compensation by way of overtime should be 2 times on normal working days and 3 times of pay on Sundays and holidays.
- 3 During journey, while accompanying remittance if a Sunday or holiday falls the employee should be compensated by payment of overtime and not halting allowance as is being presently done.

In their further statement of claims dated 10th August, 1981, the demand is that no employee should be forced to resort to overtime without adequate notice given to him. Further an employee who undertakes to do overtime should have option to choose as payment either by way of overtime or to avail of leave by crediting to his earned leave account.

28.12 The subject of overtime has been discussed in Shastri Award paragraph 299 and 300 which ran as follows:-

"299 It is necessary to point out that the nature of work in banks differs in some important respects from the usual type of work in Government offices and other commercial concerns. In banks it is necessary that a day's work should be finished in the course of the day itself with respect to most of the transactions. A good part of the business cannot be left over to be done leisurely in the succeeding days. The accounts of the constituents should be posted, checked and verified before the next day's work commences. Similarly, cash balances have to be checked and verified at the end of the day. Parties have to be intimated promptly with notices of returned cheques received from the Clearing House. These and allied matters necessitate that the day's work should be finished before the clerks are permitted to leave office. It is necessary to see that the clerical staff do not down their pens immediately on the close of the actual hours of work fixed when the day's work in respect of the above matters is not over. This consideration must be kept in view.

300 Again the nature of the work in banks requires that overtime work should be done on several occasions particularly during periods when accounts have to be closed yearly, half yearly or quarterly, or even fortnightly. Returns and statements have to be sent to the Reserve Bank of India, and prepared for other purposes also at periodic intervals. Immediately after holidays and sometimes on the day prior to holidays there is heavy rush of work in

banks. These factors necessitate that clerks may have to stay and do overtime work in some departments and on several occasions. It would be far too much of a financial burden to insist on banks increasing their staff to meet this kind of work which is somewhat intermittent in character and varying as occasion needs. The legitimate way of providing for these circumstances is to recognize the obligation to do overtime work, of course, within stated limits and to provide for extra payment for such kind of work. This has been the well recognised practice and is sanctioned by several awards of industrial tribunals and of the Labour Appellate Tribunal as well."

28.13 The points regarding the cushioning, staggering and ceiling to be put on the overtime have to be appreciated keeping in mind the above observations. So far as the cushioning period is concerned my attention was invited by Shri Phadnis to the Supreme Court rulings for contending that the Supreme Court does not contemplate in the nature of cushioning period. But that does not appear to be correct. 1964 (1) LLJ 429 Supreme Court—Karamchand Thapar v/s. their workmen lays down at page 234 that the rate at 1-1/2 time wages should be related to the basic wage. The Tribunal's grant of overtime on these principles was upheld.

In 1969 1 LLJ 235 Supreme Court—Indian Oxygen v/s. their workmen, the observations relied on by Shri Phadnis at page 24 are as follows:

"Any man asked to work beyond these hours would obviously be working overtime and the company in fairness would be expected to pay for compensation for such overtime work."

1972 (1) LLJ 253 S.C. Gujarat Beedi Karkhana v/s. Union of India was cited by Shri Phadnis to show that the question of overtime is connected with the conditions of work.

None of these cases speaks anything in respect of cushioning period. No one would dispute the proposition that the workmen should get extra wages for overtime. That is what is laid down in the above cases. The case of cushioning stands on a different footing altogether. Extra work including the period which would have been termed as cushioning period if there was not to be any excess period, is paid for. But some period after the ordinary closing hours is excluded from payment when the employee is allowed to go home either some time before or just after that cushioning period. One has to look to the practical aspect of it. If overtime for a few minutes is also to be granted we might encourage the tendency to put aside the work for some time or to put it in arrears so as to claim even small overtime. It tends to reason, therefore, that after the close of duty hours, some marginal time is allowed to lapse so that employees doing work subsequent to that marginal time alone should be looked upon as qualifying for overtime work. They are not losers because once they sit beyond the marginal time, the entire period from the close of the duty hours is counted for overtime. It is only to exclude the possibility of making eligible a person for overtime even if he works during marginal time that the cushioning period is contemplated. I cannot, therefore, appreciate the contention that the management extracts unpaid labour when no overtime is paid for such marginal period. Originally the marginal period was 1/2 hour which itself was reasonable. By the Bipartite Settlement of 7th October, 1970, it has been reduced to 15 minutes. Surely to say that a person should get overtime even if he sits only 15 minutes more than the closing time, does not look proper or reasonable. I am, therefore, retaining the cushioning period of 15 minutes.

28.14 As regards staggering of work the following passage from Ayer Award makes helpful reading.

"11.4 The hours of work for an employee in the Bank on week days are, as already stated, 6-1/2 hours. Normally these hours of work will be continuous subject to lunch recess. But there are certain types of work which cannot be performed continuously and must be attended to as and when they arise and persons who are put on such duty on such work can perform it only when the occasion for it arises. In such cases the concept of work for a continuous period of 6-1/2 hours a day, with a

lunch interval, becomes, unworkable. All that the employee can insist is that the work as a whole should not exceed 6-1/2 hours a day. The Bank has got to regulate the periods when work of this nature has to be done and it is this, that is called staggering. It is incidental to all banking business. The Organisation has made certain demands with reference to staggering, which must be noticed. It claims that there should be no staggering of duties for posts in respect of which there is heavy work in the beginning and at the close of working hours, and that further the actual timings of work and of lunch period should be fixed by the Bank in consultation with the unions so as to achieve staggering of hours. The Bank resists this demand. It contends that the hours of staggering must depend on the nature of the business that the Bank is the exclusive authority on the subject and that there should be no question of consulting the unions. I am in agreement with this contention. The staggering must necessarily depend on the exigencies of the work as they develop, and the Bank should be the only authority which can come to a decision on the matter and that must be left to its discretion. I do not see therefore any sufficient ground for introducing any change in the present practice."

28.15 On behalf of the Bank, a statement is submitted indicating the total number of class III staff placed on staggered duty and extent of staggering. This would be found in the Annexure "A". A glance at this statement would show that only a small percentage of employees are put on staggering duty. I never gathered from the arguments that the management was misusing the practice or using it to harass the employees. It is, no doubt, true as was pointed out by Shri Devidas Pai for organisation, that for doing the same work, at some branches of the Bank work is required to be staggered, whereas at other branches, work is not required to be staggered. Prima facie that looks odd but the working at each branch differs and that could be on account of many circumstances. Considering this aspect, the practice of staggering is upheld.

28.16 As regards ceiling, it is no doubt true that the present trend is that as far as possible there should be no occasion for overtime. That is beneficial both to the employee and the employer in the ultimate analysis. To the employer because he has not to pay any extra wages, to the employee because it would stop the apprehended discrimination in choosing or not choosing an employee for overtime work. It is conceivable that a certain employee may feel that he is always chosen for being given overtime work in order to harass him. On the other hand, certain other employee may feel that he is deprived of the opportunity to earn more as he is not any time getting a chance to work on overtime. The disparity remains, but as a matter of fact, if overtime is to kept at minimum level then it has to be introduced only where it is absolutely necessary. In the commercial banks, a ceiling of 175 hours has been put. My attention was invited by Mr. Devidas Pai to the recent circular of the Bank of Baroda where instructions are given to bring down the overtime to zero. If these efforts become successful there is no reason why such efforts cannot be made even by the Reserve Bank of India. I do not think however that any limit is required to be put on overtime. According to me it would be sufficient to give directions to the RBI to keep overtime at the minimum level. I am sure the Bank will comply with it in all seriousness. There is therefore no necessity to put any ceiling on the overtime. The demand in that connection is rejected.

28.17 The next question is the method in which extra work is to be compensated. As indicated earlier compensation for extra work is given in three ways, i.e., by giving a fixed monthly allowance or by giving a compensatory off or by making extra payment in money. In which form the extra work should be compensated should normally depend on the management. A matter of administration is involved in it and on principle how to organise the business would be the matter resting with the management. A case was however, made that sometimes choosing one method or the other results in injustice. Karamchari Federation went to the extent of saying that the method of acceptance of compensation should be left to the employee himself so that he may even choose to turn it into earned leave. I think, it is the manage-

ment which is best suited to decide that point. I can, however, make some observations. It appears that overtime could neither be anticipated vaguely or anticipated with sufficient certainty. If it is anticipated vaguely or generally the extent of period is normally not known and as such continuation for such extra work should be in terms of money. On the other hand, if overtime is required to be done almost every day for a short period, the better method would be to give a fixed allowance. Now there are cases, such as the cases where the employees are required to work on days when the employees in general have a weekly off or a holiday. The nature of work done by such employees requires them to work on days when other employees are not on duty. The compensatory offs should be the good remedy to compensate such work. Of course, it can be compensated with additional payment of money also. Normally a workman would be having some day as a weekly off. If he is required to work on that weekly off day, he should be paid at the rate fixed for overtime for other employees.

28.18 Coming to the question of the rate of payments, the different Unions have put forward three different modes. At present 150 per cent of the normal salary is paid for extra work on working days and 200 per cent is given for extra work on Sundays or holidays. The Association has not asked for any change in the present rate of compensation. The Organisation and the Karmachari Federation, however, want to raise it to 200 per cent and 300 per cent respectively. The Co-ordination Committee on the other hand wants it at the flat rate of 200 per cent whether the extra work is done on the working day or holiday. During discussions, the position prevailing in commercial banks was looked into. My attention was invited by Mr. Revilas Pai to the Code of Service Conditions published by National Organisation of Bank Workers at page 121. Item Nos. 13 and 14 refer to the overtime work. On Sundays and holidays the payment is at 200 per cent as is the case in the Reserve Bank of India; Reserve Bank's practice is thus in line with the commercial bank on such extra payments for Sundays and holidays. As regards extra payments on week days or Saturdays the method followed by the commercial banks is to divide the work into quarters of hours so that payment for the first two quarters overtime work is at 100 per cent, next four quarters is at 170 per cent, next 4 quarters at 200 per cent and the rest is also at 200 per cent. This introduces calculations to be made for different stages and therefore a sort of increase in the clerical work. The present method followed by the Reserve Bank of India of giving 150 per cent all throughout would not, in my opinion, result in any material loss to anybody. In fact, if the extra work is of less than three hours on a working day an employee in the RBI is a gainer. I am, therefore, inclined to retain the 150 per cent extra payment for overtime on week days. Consequently the case for enhancement of overtime payment for extra work is not acceptable.

28.19. This brings us to the discussion regarding the overtime in cases where the employee is sent on remittance duty and where Coin-Note Examiner Gr. I is sent on Mint duty. So far as mint duty is concerned, the case is well illustrated by the note given by the All India Reserve Bank Karmachari Federation. Basically, the Bank employee is required to work for 6-1/2 hours a day whereas the duty hours in the mint are 8 hours per day. This is including Saturday. As a result, he works for extra 4-1/2 hours on Saturday and for 1-1/2 hours for the other 5 days totalling an extra work of 12 hours per week. Supposing a person sent on mint duty is required to work on a day which is a holiday for the RBI, the total extra hours of duty comes to 18-1/2 hours. The practice followed by the RBI is to give compensatory off for a day in cases where the person works for 12 hours extra and to give 2 compensatory offs in the other case so that the payment for overtime in money in both the cases is for 5-1/2 hours; the remaining period being compensated by way of compensatory off. It is suggested by the Karmachari Federation that this does injustice. The reason appears to be that if a person were to get overtime say at the rate of 1-1/2 times salary, for 12 hours extra work, he would have been entitled to the remuneration payable for 18 hours and for 18-1/2 hours extra work which includes a holiday he would have been entitled to the remuneration for 31-3/4 hours because remuneration for the 8 hours duty on holiday would have been at 200 per cent instead of 150 per cent. The suggestion, in short, is that either give remuneration in money

for so many hours viz. 18 hours in one case and 31-3/4 hours in the other case or convert such remuneration into compensatory offs so that the compensatory offs should be proportionate to the payment in terms of overtime allowance. This discussion involves the principle as to how the compensatory off should be taken. If a person puts in extra work for some period he gets 150 times or 200 times of the normal remuneration. The question would be when a person is compensated in kind, whether that compensation should be equal to the period spent on extra work or that compensation should also be enhanced compensation even when he is permitted to remain absent from duty. I have not been able to locate the principle why compensatory off should be taken at enhanced rate. It has already been remarked by me that it is upto the management to arrange their own affairs and to decide whether overtime compensation should be in terms of fixed allowance or in terms of offs or in terms of overtime payment. Whenever it is a monetary payment and not by way of full allowance, the rate differs. No case was pointed out to me where any institution gives compensatory offs by reckoning it as enhanced compensation. On the contrary, much could be said on the other side that when a person is allowed to remain totally absent for a full working day by way of compensatory off, he gets leisure which is much desired. He can arrange his affairs during the compensatory off or can rest and recoup so as to be in a better position than when he worked on a particular day. In this connection, the observations in Report VII(1) of the International Labour conference, 44th Session on 'Reduction of hours of work' would be somewhat helpful. During with the reduction of the hours of work and overtime, it has been stated as follows:

"National law and practice with regard to overtime vary greatly; restrictions are generally imposed by the day, week, month or year or by a combination of these different periods. The maximum daily amount of overtime that may be worked is two or three hours a day, or four at the most, for a specified number of days in any one week or other period. The weekly limits that apply are ten, 12 and sometimes 20 hours. There are also limits applying to periods of several weeks (two or three), which set a maximum duration of overtime for such periods. The maximum monthly limits range from 30 to 50 hours and the yearly limits from 120 to 240. There are also cases, however, in which there are few specific restrictions on the working of overtime, especially in countries where normal hours of work are relatively short and where it is considered that the higher rates of pay for overtime already constitute a fairly effective brake on the extension of such work beyond certain limits."

Apart from this, while dealing with the topic of 'Economic and Social restrictions of any reduction in hours of work' and thereunder pressing the need of leisure as a way to compensate fatigue, it is said:

"Already on that occasion it was emphasised that the economic and social effects of a reduction in hours are many and varied. Apart from increased leisure and a consequent lessening of fatigue, there are other direct repercussions."

In view of this discussion, I do not feel inclined to accept the suggestion that overtime when paid by way of compensatory off should be looked upon more in terms of overtime payment than the simple compensation of extra hours of work.

28.20 In this connection, we might also refer to para 11.17 of the Aiyar Award where the mode of compensation was discussed and the suggestion of the Bank to give compensatory off at one day for every 6-1/2 hours of extra duty was accepted. Compensatory off is thus visualised on par with the working hours whether they are extra hours or whether they are the hours allowed as absence from duty.

28.21 So far as remittance duty is concerned, it appears that Poddars are required to take charge of the remittances in the office before proceeding to the station for journey. At the destination they are sometimes required to wait for handling over the remittances. During journey also they are required to watch the delinking of the wagon from one train and linking it to another train and see that the wagon is properly handled. Intervening period between delinking and linking is

required to be spent without any tangible work. It has been stated by the Cash Department Employees that the Pordais on remittance duty should be paid overtime for the period from the time the train reaches the destination till the time remittances are taken over and also for the intervening period when the wagon carrying remittance is detached from one train and attached to another train. Now a look at para 8.48 of the Aiyar Award would show that the Association had then claimed overtime for the intervening period instead of halting allowance in which the personnel on remittance duty was entitled. A reading of para 8.49 would show that this demand was negatived because for the journey, the person was entitled to the halting allowance and granting him overtime for a part of this period would be introducing 2 way payment. In the opinion of the learned arbitrator, it was illogical to grant allowance for one segment of the work on one basis and for another segment of the same work on another basis.

28.22 Similarly, a look at para 11.12 of the Aiyar Award would show that the Organisation had claimed overtime allowance when an employee travels on duty on a Sunday or holiday. Since the demand was not for overtime instead of halting allowance, it was not accepted. But it has been remarked that even if the demand was for overtime allowance in lieu of halting allowance, it would stand rejected. Once having met this fate, the same points are sought to be pressed again by the Cash Department Employees by elaborately stating about the manner in which a person on remittance, undertakes the journey. Without charge of circumstances, therefore, this demand cannot be considered.

28.23 It has however to be noted that inspite of the contrary decision of the learned arbitrator, in the Bipartite Settlement of 1970, it is provided as follows:

"For remittance duty, the duty period from the close of office hours to the actual departure of train/steamer, will be treated as overtime work, provided the employees deputed on remittance duty actually accompany the remittance."

At the time of arguments, it was represented to me by the Bank that the Bank was dragged into making this concession. I am not prepared to imagine the circumstances in which the clause came to be embodied in the Settlement. It does appear that the Bank has deviated from the rule found in Aiyar Award and the employee on remittance duty does get overtime even before the train actually departs. This he gets from the close of office hours till the time of departure of the train. If this is so, in my opinion the situation at the destination where the journey ends and the change of the remittances is to be given should be treated as parallel. As such, the changed circumstances introduced by the Bank itself would be a strong reason to grant overtime for the period between end of journey and giving over the remittance. Consequently, the request to pay overtime for the period from the time the train reaches the destination till the time the remittance is taken to the recovery office, is accepted. However, prayer for overtime during the intervening period being contrary to the logical position discussed in Aiyar Award is rejected.

28.24 This leaves us with two minor points made out in the pleadings. One is an oblique reference to non grant of overtime on 17th January, 1978 when on the promulgation of the Demonetisation Ordinance, that was declared holiday for the banks under the Negotiable Instrument, Act but the RBI was working and the other of giving notice to the employees before asking them to do overtime. The first was obviously not a holiday for RBI who was expected to do many functions under the ordinance. Making a point out of it against the RBI is astonishing. So far as the other matter is concerned, contention is not well founded. Fixed overtime is always known and for overtime work arising suddenly because of the arrears of work can possibly be with barest minimum intimation which can be looked upon as enough notice under the circumstances.

CHAPTER XXIX

Item No. 13 : Procedure for termination of employment and taking other disciplinary action.

Item No. 25 : Desirability of discontinuance/amendment of the Reserve Bank (Staff) Regulations.

29.1 These two items can be conveniently discussed together. Item No. 13 is in connection with Regulation 47 of the Bank's Staff Regulations. In their submission, the Bank has stated that the Hon'ble Tribunal is not called upon to deal with other Regulations while discussing item No. 13. It appears this contention was raised because the Association, in particular, and other Unions in general had made submissions in respect of other Regulations while dealing with Regulation 47. Since, however, there is separate item No. 25 for making any suggestions regarding any other Staff Regulation and since I am having a combined discussion, this contention of the Bank need not be looked into.

29.2 Regulation 47.

So far as Regulation 47 is concerned, it is the submission of the Association that there are many loopholes and inadequacies in the procedure for domestic enquiries conducted by the Bank under this Regulation. The Association has very strongly objected to the latter part of the proviso to sub-regulation (2) of Regulation 47, which, it is said, vests arbitrary and discretionary powers in the Bank to skip over the obligation of going through the process of domestic enquiry before taking any disciplinary action against an employee, including dismissal. According to the Association, the continuance of this part of the proviso to Regulation 47(2) is fraught with disastrous consequences for the employee as it empowers the Bank Management with absolute powers to cut the throat of the employee by denying them even the fundamental right of self-defence.

29.3 In this connection, the Organisation has submitted that "even though the Bank's Regulations may be contractual in nature, there is nothing sacrosanct about them and they are being changed from time to time whenever there is necessity. Under the pretext that the Regulations are contractual, the Bank cannot impose its unilateral will on the employees nor can it deny the principles of natural justice to them." The Organisation, while demanding the adoption of the provisions of Shastri Award in this connection, has asked for a scientific, judicious and cogent procedure for termination of an employment and for taking other disciplinary actions so as to ensure protection to the employees and to follow the laws of natural justice.

29.4 It is the submission of the Organisation that although Regulation 47 specifies the modes of penalty and specifies the authority to conduct the enquiry for different categories, it is very silent about the definition of misconduct, procedure for enquiry, specification of punishment for different types of misconduct and the time limit to dispose of the cases. This has left the employee at the mercy of the employer. The Organisation has contested the Bank's statement that Regulation 25(2) and Regulation 47 of the RBI (Staff) Regulations have stood the test of time. It is said that Sastri Award having been pronounced as far back as in 1953 and its provisions not having been modified by the Desai Award and other bipartite settlements in respect of commercial banks, it would be improper, for the following reasons, to say that the clock is sought to be put back. In the first place, Staff Regulations do not provide the basic structure for the procedure for termination of employment and other disciplinary action. The question of their having stood the tests of time therefore does not arise. Secondly, the basic structure was laid down by the Sastri Award which has not been changed by the subsequent awards or bilateral settlements and it is this which can be said to have stood the test of time. It was also stated on behalf of the Organisation that in any case no order of dismissal should be made by the Bank without the prior consent of the Labour Court or the Tribunal. The Scheduled Caste/Scheduled Tribe Federation demanded amendment to the Regulations to remove the bar on making representation to outside authorities, if Regulation 47 could not be deleted. This however is a specialised treatment and would also remain on the interpretation of the Constitutional safeguards given to them by the Constitution. The plea cannot be looked upon here as an alternative for the non-deletion of Regulation 47.

29.5 The stand of the Bank is that similar dispute was referred for adjudication to the Desai Tribunal. By paragraph 14.7, the Desai Tribunal held that the provisions in Regulation 47 did not require any alteration as regards the procedure for imposition of penalties (b), (c), (d) and (e) other than the penalty of reprimand referred to in the said Regulation.

29.6 In paragraph 13.10 of the Aiyar Award, the Learned Arbitrator referred to Regulation 47 of the Bank's Staff Regulations and held that no change was called for in the present Regulation. It is the submission of the Bank that these directions are binding on the Tribunal as *Res judicata*.

29.7 As regards the demand made by the Workers' Organisation that no order of dismissal should be made by the Bank without prior consent of the Labour Court or Tribunal and that the provisions of the Sastry Award, viz. paragraphs 520 and 521 for domestic enquiry and penalty may be made applicable to the Class III employees of the Reserve Bank, it is the submission of the Bank that the prior consent of Labour Court or Tribunal is required only in the cases falling under Section 33 of the Industrial Disputes Act. Therefore, the question of the Bank taking prior consent for dismissing an employee would not arise. Except Section 33, there is no provision in the Industrial Disputes Act under which the employer is required to obtain the prior consent of the Labour Court or Tribunal for dismissing the employee. Similarly, the demand for the provisions of the Sastry Award to be made applicable to the Bank, it is the contention of the Bank that the Bank has codified conditions of service in the form of the Reserve Bank of India (Staff) Regulations, 1948, which have been approved both by the Desai Tribunal and the Aiyar Arbitrator. Therefore, the question of applying the provisions of Sastry Award would not arise.

29.8 It has been incidentally mentioned that assuming an employee has any grievances on this ground, it is always open to him to invoke the provisions of the Industrial Disputes Act, 1947, as Section 2A of the Act authorises even an individual employee to raise an industrial dispute about the termination of his service.

29.9 To sum up, the submission of the Bank is that no change in the procedure for termination of employment and taking other disciplinary action is called for.

29.10 Regulation 47 relates to penalties. First part of it enumerates the types of punishment that can be meted out. Clause (2) provides for departmental enquiry after serving of charge-sheet. Proviso to this clause relates to exceptions which could be made so that the punishment may be meted out to an employee without holding any departmental enquiry. Clause (2)(a) is in respect of combined enquiry of two or more employees. Clause (3) refers to the persons who could be appointed as enquiry officers. Clause (4) provides for suspension allowance and clause (5) contains additional provisions when action for corrupt practices is to be taken. By and large, it has been contended that Regulation 47 should be abrogated or should be brought on lines with paragraphs 520 onwards of the Sastry Award. Discussion also centres round the proviso to Clause (2), which in certain circumstances, dispenses with the departmental enquiry. It was contended that this provision is against natural justice and is also against the fundamental rights.

29.11 The Regulations are framed by the Reserve Bank of India. The preamble does not show the source of authority. But it is clear that they are different from the statutory regulations such as the Provident Fund Regulations etc., which are made under Section 58 of the Reserve Bank of India Act. Mr. Damania for the Reserve Bank conceded the position that unlike the statutory regulations framed under Section 58 of the Act, which could be modified only in the manner provided thereunder, the Staff Regulations, 1948 could be modified by the Tribunal. He, however, contended that Regulation 47 has stood the test of time and the contention for changing any part of it should be rejected. On behalf of the contesting unions, authorities were cited to show the character of these Regulations. When, however, it was stated that the Tribunal can modify the same, the point need not be elaborated. It was observed in *Sukhdev Singh vs. Bhagatram*, 1975 1 LLJ, 399 that the Regulations of such statutory bodies like the Reserve Bank of India, which is "State" under Article 12 of the Constitution, are binding not only on the authorities but also on the public. Relevant paragraph 23 of the judgement is as follows:

"23. The noticeable feature is that these statutory bodies have no free hand in framing the conditions and terms of service of their employees. These statutory bodies are bound to apply the terms and conditions as laid down in the regulations. The statutory bodies

are not free to make such terms as they think fit and proper. Regulations prescribe the terms of appointment, conditions of service and procedure for dismissing employees. These regulations in the statutes are described as "statute fetters on freedom of contract". The Oil and Natural Gas Commission Act in S. 12 specifically enacts that the terms and conditions of the employees may be such as may be provided by the regulations. There is a legal compulsion on the Commission to comply with the regulations. Any breach of such compliance would be a breach of the regulations which are statutory provisions. In other statutes under consideration, viz. the Life Insurance Corporation Act and the Industrial Finance Corporation Act though there is no specific provision comparable to S. 12 of the 1959 Act the terms and conditions of employment and conditions of service are provided for by regulations. These regulations are not only binding on the authorities but also on the public."

29.12 My attention has also been invited by the Bank to the decision of the Bombay High Court in *N. F. Patel vs. Reserve Bank of India*, 1979 1 LLJ 163, in which it is said that a Corporation is as fully capable of binding itself by any contract as an individual except those contracts which are against the nature of objects of the Corporation or which by express or implied terms of the Constitution, it is prohibited from making, and that the Staff Regulations of the Reserve Bank of India are not invalid for want of sanction of the Central Government. The long and short of it would, therefore, be that the Regulations should be looked upon as contractual in nature so that it would be competent for the Tribunal to repeal or restate the contract in case it is not found justified.

29.13 Item No. 13 of the Reference is worded 'Procedure for termination of employment and taking other disciplinary action'. If we now refer to Desai Award, Chapter 14, the item under discussion was 'Procedure for the termination of employment and taking other disciplinary action' including the claim of the Reserve Bank of India Employees' Association to defend individual employees in disciplinary proceedings. The discussions at Chapter 13 of Aiyar Award would show that the item under discussion was 'Procedure for termination of employment and taking other disciplinary action'. For our purpose, therefore, the items are worded identical as item No. 13 of our reference. Desai Award made no change in any of the provisions in Regulation 47, except saying that the penalty of reprimand could not be inflicted without observing the rules of natural justice and hence directions were given that the provisions contained in sub-section (2) and (3) of Regulation 47 should equally apply where the punishment of reprimand is to be inflicted by way of penalty in disciplinary actions. In Aiyar Award, the item is discussed in two parts, viz. (1) procedure for the termination of employment, and (2) procedure for taking other disciplinary action. The second part is sub-divided into four sections, viz. (i) rules of procedure at the enquiry, (ii) a second hearing on the question of punishment, (iii) the officer who is to conduct the enquiry, and (iv) provision for defending the employee. In other words, the discussion contains a fool-proof scheme or mechanism for the operation of Regulation 47 dealing with misconduct and disciplinary action. If this is so, for appreciating any change sought to be made in Regulation 47, we will have to be careful in seeking whether circumstances are such as to make it obligatory. If the changes are sought to be introduced for making some marginal amendments, the Tribunal would rather prefer the principle of *stare decisis* than like to create a new line of reasoning and displace the established precedents.

29.14 This would be in consonance with the principle of '*res judicata*' as applicable to industrial disputes. In *Sankar Prasad Banerjee vs. Central Government Labour Court*, 1975 1 LLJ 71, the Calcutta High Court has defined the limits within which the principle of '*res judicata*' could be made applicable to industrial Tribunals. Paragraph 17, which is material, reads as follows:

"17. The ratio of the decisions referred to by the parties as noted above appears to be that the principle of *res judicata* would be normally applicable to industrial adjudications for awards as industrial settlements are intended, consistent with the policy of

the Industrial Disputes Act, 1947, to be operative for a fairly long period unless there is a change of circumstances which may be the basis of the award. In cases where the award is based on prevailing circumstances like determination of wage structure and the like on existing price index, with the constant change of circumstances like spalling of prices, the principle of *res judicata* would be inappropriate and inapplicable. Such principle would, however, be applicable when the award is not based on prevailing circumstances but on rights claimed long existing but found by the Labour Court as non-existent and there is no scope for any change of the rights or in the claim of the workmen on the employer by reason of the change of circumstances. In this state of affairs there can be no dispute that in such cases, the principle of *res judicata* will have full application."

29.15 Mr. Phadnis, in this connection, invited my attention to the decision reported in the same volume, viz. 1975 1 LLJ 126-C, G. G. Panicker vs. T. M. Eapen. The question there was whether the workmen could make repeated applications under Section 33-C(2). The Kerala High Court, following Supreme Court decision in Associated Cement Staff Union vs. ACC, 1964 1 LLJ 12 and other cases, held that normally the principle of *res judicata* is not applicable to industrial cases. This observation was in relation to wage structure and so the particular application was held not barred by *res judicata*. It has been, however, specifically stated "but this is not to say that this rule could not be invoked at all".

29.16 The sum and substance of the matter appears to be that where a question has been decided and the situation available exists for a long time, a change should be introduced only after a very good case is made out for it. The Supreme Court had numerous occasions to speak of the tests and procedure to be followed when employment of a worker is to be terminated. The Scheme envisaged by the Aiyar Award in Chapter 13 is consistent with it. In my opinion, there is no efficacy in substituting the same and going to a similar scheme contained in Sastry Award. The substance of the arguments appears to be that the Tribunal should, in the first place, see that the misconduct referred to in sub-clause (1) of Regulation is specifically defined and secondly provision for waiving the requirements of departmental enquiry should be abrogated.

29.17 As regards the first part, it is to be remembered that the expression "guilty of any other act of misconduct" in the context of the listed delinquencies in Regulation 47 is *eiusdem generis* and to try to interpret it by giving a definition would create more complications than could be argued about in the present state of affairs. Action is contemplated when an employee commits breach of any Regulation of the Bank or is negligent, inefficient, indolent, or knowingly acts detrimental to the interests of the Bank or in conflict with instructions, or commits a breach of discipline and hence misconduct contemplated can easily be discerned when we meet with cases. We should be able to find out whether or not Regulation 47 is resorted to validity or invalidly. I am not, therefore, in favour of accepting the suggestion to redefine misconduct.

29.18 So far as the latter part where departmental enquiry is dispensed with, Mr. Phadnis for the Association was eloquent in arguing that departmental enquiries cannot at all be dispensed with and therefore, it is the right and absolute obligation to hold enquiry. He told me that even if a charge-sheet is received and torn by the employee or where guilt is accepted, but there is no charge-sheet, it is necessary to conduct enquiry. He said that even when the address of an employee is not known, it is duty of the management to conduct the enquiry according to the procedure laid down and come to the conclusion after the enquiry whether the man is guilty. He particularly relied upon the recent decision reported in 1981 1 LLJ, 137 (Supreme Court)—Gujarat Steel Tubes Ltd. vs. Gujarat Steel Tube Mazdoor Sabha, where although 853 workmen had proceeded on illegal strike, their discharge for misconduct without holding enquiry was held improper. It is however to be noticed that in all the illustrations taken up by Mr. Phadnis for argument, it cannot be said that there was inability to hold enquiry as contemplated by the latter part of the proviso to sub-clause (2) because of the person absconding or because of some reason it becoming impracticable to communicate with him.

In fact, the requirement can be waived only when it does not result in injustice to the employee. Further, the Bank is under an obligation to state the reasons for so proceeding. This provides a safeguard to the employee who is not deprived of the remedy in case the provision is misused. We can conceive of attempts to stall such an enquiry and the existence of the provisions would avert the stalemate.

29.19 The other contingency in which departmental enquiry is to be dispensed with is where a man is found to be guilty by a court of law. Such provisions are found everywhere. Once the guilt is established, the Bank can rely upon it. Dispensing with an enquiry on that ground cannot be said to be unjust. In view of the above discussion, it is not possible for me to come to the conclusion that the proviso to sub-regulation (2) of Regulation 47 should be amended or deleted.

29.20 At the time of argument, the Co-ordination Committee proposed an amendment to sub-clause (4) of Regulation 47, which deals with suspension and suspension allowance. As the provision stands today, the subsistence allowance is regulated at the substantive pay plus 25 per cent thereof. There is provision to make up the difference if no penalty is imposed. The employee is also not bound to refund the subsistence allowance if penalty is imposed. The penultimate provision speaks of treating the period as on duty or leave if the employee is not dismissed, according to the order passed by the competent authority.

29.21 In the changes suggested by the Co-ordination Committee, in the first place, the subsistence allowance is sought to be increased so that it is kept at the level of substantive pay plus 25 per cent thereof for the first 3 months, substantive pay plus 50 per cent thereof for the next 3 months and payment of total emoluments after 6 months. That is to say that after 6 months, if the action has not ended, for this purpose at least, the employee should be treated as if he is exonerated. This does not sound reasonable and I do not find any need to regulate the allowance in stages.

29.22 The second amendment is for taking away the discretion of the competent authority to treat the suspension period as on duty or leave and to make it absolutely as on duty only. The circumstances in which a person is found guilty or not guilty may vary in each case and if a judicious discretion is given to the competent authority to treat the period as on leave in some cases, on principle there is nothing wrong in it. The third suggestion is for prohibiting any refund of subsistence allowance under any contingency. But this provision exists in the present set up. The fourth amendment seeks to cast an obligation on the management to make refund of deductions, where necessary, in 24 instalments. This also looks unnecessary because I expect the Bank always to be very prompt in seeing that the employee does not suffer if no case is made out against him. In fact, no material was placed before me to show how anyone suffered without such amendment. Consequently, these amendments are not accepted.

29.23 The Bank is right in its submission that for dismissal no prior consent of a Labour Court or Tribunal is necessary, except when the matter falls under Section 33 of the Industrial Disputes Act. The obligation to take such permission in cases not covered by Section 33 would encroach on the rightful liberty of the employer to met out proper punishment in proper cases and hence the demand of the Organisation in this regard is rejected.

29.24 In the result, Regulation 47 stands as it is without any modification.

Regulation 25(2)

29.25 Under item 25, very hot discussion took place on the deletion of Regulation 25(2). Regulation 25(2) is as follows: "Subject to the provisions of Regulation 22 the Bank may determine the service of any employee giving him—

- (a) three months' notice or pay in lieu thereof if he is an employee in Class I, and
- (b) one month's notice or pay in lieu thereof if he is an employee in any other class.

The power to determine the service of an employee shall be exercised by the Governor with the prior approval of the Central Board in the case of an officer and by the Manager with the prior approval of the Governor in the case of other employees."

According to the Association, Regulation 25(2) vitiates the permanency of an employee making it as null and void and therefore is basically bad in law. It is also violative of the fundamental rights and contrary to the directive principles of the State policy and its directions. Regulation 25 is also bad in law because it violates the provisions of Section 25F of the Industrial Disputes Act, 1947. It is the submission of the Association that in Bombay High Court judgement in N. F. Patel's case—1979 1 LLJ 163—referred to by the Bank, the provisions of Section 25F of the Industrial Disputes Act and the fundamental rights of the employees under the Constitution were not considered. It is further submitted that the Regulation formulated for permanency in the employment cannot at the same time formulate another Regulation to terminate the services of an employee without adducing any reason. As to the contention that the employer should have a corresponding right to determine the contract of his employment, it is the submission of the Association that this argument is fallacious because the employee does not stand on the same footing as the employer. The employee has a right to resign for better prospects. However, the employer cannot terminate the employment of any employee without giving any reason. According to the Association, the argument of the Bank that having regard to Section 11A of the Industrial Disputes Act an Industrial Dispute can be raised and adjudicated upon by an Industrial Tribunal, by itself is the reason to regard the authority of the Bank to terminate services of an employee under Regulation 25(2) as null and void. According to the Association, this Regulation should be struck down because it gives unfettered powers to the management to terminate the services of permanent employees. Further, when unemployment problem with white collar labour is becoming acute, Regulation 25(1) enabling an employee to voluntarily leave the service and Regulation 25(2) can never be equated. Regulation 25(2) will lead to unfair labour practices, victimisation, favouritism and is thus bad in law.

29.26 To sum up, the Association's criticism would be as follows :

- (1) It empowers the Bank to terminate the services of its employees without giving any reason and thus is violative of Articles 14, 19 and 43 of the Constitution.
- (2) It makes a mockery of, and nullifies, the right to permanency of an employee and therefore is bad in law. It is equally bad for the reason that it gives unchallengeable powers to the Bank to terminate the services of the employee without assigning any reason whatsoever and thus opposed to the basic structure of the Constitution of India. Further, this regulation is bad in law because it contravenes Section 25F of the Industrial Disputes Act.

29.27 The Organisation as well as the Co-ordination Committee are in favour of deletion of Regulation 25(2) almost on the same grounds.

29.28 It is the submission of the Bank that this Regulation is only the counter-part of Regulation 25(1) which enables the employee to terminate his contract of employment by giving 3 months' notice or pay in lieu thereof. If the employee can have a right to terminate the contract of employment, it stands to reason that the employer should have such a corresponding right. Such a regulation is found in all service rules and has been upheld by the court. In particular, the Bombay High Court has upheld this Regulation in N.F. Patel vs. Reserve Bank of India, reported in (1979) 1 LLJ 163. Assuming there is malafide exercise of the power conferred by Regulation 25(2), the same can be challenged in the court by way of a writ petition. Further, in view of Section 2A read with Section 11A of the Industrial Disputes Act, 1947, an individual employee can raise an industrial dispute and the Industrial Tribunal can interfere with the order of termination if it is malafide.

29.29 Regulation 25 appears in Section 3 of Chapter II of the Staff Regulations. The subject-heading shows that this Regulation deals with determination of service by notice. Clause (1) speaks of the option given to an employee to resign from service after giving the requisite notice.

Clause (2), which is the controversial clause, embodies the power of the Bank to determine the service of any employee after giving him notice. Sub-clause (a) of Clause (2) in relation to the employees in Class I, in respect of whom 3 months' notice by the Bank is provided for. Sub-clause (b) is in relation to the other employees, for whom one month's notice is provided for. There is a rider to the sub-clause showing that in the case of an officer, while exercising the power under clause (2), prior approval of the Central Board should be obtained and in the case of other staff, prior approval of the Governor should be obtained. Since clause (2) does not refer to any requirement of any ground being mentioned in the order of termination, this would be an order of discharge simpliciter. Clause (3) provides for an exception, viz. to retire an employee without notice or to determine the service of an employee without notice on his being certified permanently incapacitated.

29.30 As the Regulation stands, it is worded as if it is a counterpart of the right of an employee to resign and there was even a temptation on the part of the Bank to argue seriously that when an employee has a right to resign without giving any reason by giving notice, there should be a corresponding right with the Bank to terminate his service by giving notice, without mentioning any reasons. The whole concept of industrial law would get jeopardised if such a simple solution is pressed in justification of Clause (2) of Regulation 25. The purpose behind an employee being required to give notice before he resigns is to enable the management to make arrangements for running its affairs in the absence of the employee. The purpose of sub-clause (2), as I look at it, whereunder an employee can cease to be an employee, would not be that simple; it is undoubtedly connected with the idea of security, continuity and stability of a person in employment.

29.31 In support of the right of the Bank to terminate the services of an employee without giving reasons, a number of cases were referred to by Mr. Damania. I do not think I should refer to all these cases. The background of discussion could be that a person in service cannot be punished except for misconduct and when the misconduct is proved by the procedure well-known to law; even then, circumstances exist where the management would not feel like giving reasons for terminating the services of an employee and would like to exercise the right, in-built in the relationship between master and servant, to put an end to the service of the servant. It is in this light that the observations in the recent judgement of the Bombay High Court in what is popularly known as the Makalu case (C.W. No. 658 of 1981), an ordinary copy of which was made available to me, has to be understood. In the discussion on the topic with which we are concerned, the Hon'ble Court made a distinction between two positions, viz. the assignment of a reason and the existence of a reason. In other words, it means that every time an action is taken, even under the clause under discussion there would be a reason existing, but it may not have been specifically mentioned in the order. Since Reserve Bank of India is a statutory corporation governed by Article 12 of the Constitution, arbitrary exercise of the powers conferred on it can be exposed and the grievance can be redressed.

29.32 In 1966 II LLJ 221, Kannaikaran (K.K.) vs. Director, Bureau of Economics and Statistics, the judgement of the Kerala High Court shows that when adverse remarks are not communicated to the employee, his reversion is not justified. Likewise, when an employer seeks to follow the procedure laid down for proving misconduct, there ought to be a complete compliance with it. Regulation 47, about which we have had occasion to discuss in this very Chapter, contemplates terminating the services of an employee for such a misconduct or penalising the employee in any other suitable manner by following the procedure laid down. The right conferred by Clause (2) of Regulation 25 is dissimilar to it. Such a right was upheld in a number of cases. In 1978 II LLJ 168, Municipal Corporation, Greater Bombay vs. P. S. Malvankar and Others, the Supreme Court was concerned with interpreting two standing orders Standing Order No. 23 of the establishment concerned provided for terminating the services of an employee for misconduct. Standing Order No. 26 provided for discharge simpliciter. The action in

that case was taken under Standing Order No. 26 and the termination was upheld by the Supreme Court. Therefore, it is not as if the right conceived under clause (2) of Regulation 25 is so obnoxious that the courts are not in favour of it. In 1970 II LLJ 20, *Delhi Transport Undertaking vs. Balbir Saran Goyal*, the Supreme Court has observed as under :

"...the order of dismissal could be challenged if malafides on the part of the authority in terminating the services had been pleaded and proved. But in the instant case, the question of malafides was not investigated by the lower courts and in the plaint malafides was alleged on the part of the General Manager in terminating the services of the employee without assigning any reason."

It has been said, following the decision in *Tewari vs. District Board, Agra* (1964 3 S.C.R. 55), that the form of the order under which the employment of a servant was determined was not conclusive of the nature of the order, the order might be merely to camouflage an order of dismissal for misconduct and it was always open to the court before which the order was challenged to go behind the form and ascertain the true nature of the order. In other words, when there is an exercise of power such as that contained in clause (2) of Regulation 25, it would be open to the employee to challenge it in a court of law if he has a case that the real intention behind the order is otherwise.

29.33 In 1972 I LLJ 501, *Air India Corporation vs. V.A. Rebello*, the Supreme Court was concerned with the justification of the action taken by the Air India Corporation under Regulation 48, which is similar to the Regulation with which we are concerned. The Assistant Station Superintendent, the original applicant, had to deal with air hostesses in the performance of his duties. The Corporation was not satisfied beyond suspicion about his general conduct and behaviour while dealing with them. The argument that the impugned order was a colourable exercise of the power under Regulation 48 and was really punitive, was rejected. It was held that a bonafide loss of confidence is immune from challenge. Incidentally, this very regulation, i.e. Regulation 48 of the Air India Corporation, was the subject matter of discussion in *Mulay's case*, reported in 1980 II LLJ 1. The Regulation was struck down by a Single Judge of the Bombay High Court on the ground that it was patently arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution. That finding must, however, be taken as negated by the recent Bench decision of the same High Court in *Makalu case* (supra), where the action taken under the same Regulation has been upheld. Mr. Damania also relied upon another judgement of the Bombay High Court in Writ Petition No. 1004 of 1974, *U. G. Harishankar vs. Union Bank of India*, where the question raised was whether the service of an employee of a statutory body could be terminated on the ground of loss of confidence by a notice terminating his service simpliciter. After looking at the various authorities, the conclusion arrived at by the learned Judge, in paragraph 25 of the judgement, is as follows :

"In my view in absence of statutory provisions a statutory body will have a power to terminate service but for good reason and without being arbitrary and will include power to terminate employment by giving of a notice of a reasonable period for good reason, one of the good reasons being loss of confidence."

29.34 In fact, it would be relevant to compare Regulation 48 of the Air India Regulations with the Regulation with which we are concerned, Regulation 48 of the Air India Regulations, as quoted in *Makalu's case*, is as follows :

"48. Termination :

The services of an employee may be terminated without assigning any reason, as under :

- (a) of a permanent employee by giving him 30 days' notice in writing or pay in lieu of notice;
- (b) of an employee on probation by giving him 7 days' notice in writing or pay in lieu of notices;
- (c) of a temporary employee by giving him 24 hours' notice in writing or pay in lieu of notice."

As regards exercise of this power, it has been said in that judgement as under :

"Any occasion to use the power of terminating the services of an employee can only arise when acts and omissions of the employee concerned militate against such discharging of the functions and duties. This can happen only when the purpose of the appointment is found to be frustrating."

It has been further observed as under :

"If Regulation 48 is read in isolation, one is likely to get an impression as if the power to terminate can be used by the Corporation at the sweet will of its officers without being required to be guided by any relevant consideration. If, however, Regulation 48 is read along with the functions as indicated in Section 7 of the said Act for the efficient carrying out of which employees are appointed in terms of Section 8 thereof, and the object for achieving which the Regulations are framed under Section 45(2)(b) of the said Act, it would at once be clear that the powers cannot be said to be so uncannal and unguided."

It has been further observed, in paragraph 84 and 85 of the judgement as under :

"84. Under the age old law of master and servant, a servant could be removed on loss of confidence in him without anything more. The modern complex life makes it necessary to ensure security of the tenure whose contribution to the production and service is recognised to be as important as the capital and management. It is not without reason that even while modifying the law of master and servant and protecting the servant by preventing his dismissal by way of punishment without enquiry and an opportunity to the delinquent to disprove the charge, the Legislature has not thought it proper to dispense with altogether the master's right of terminating the service after notice of a month or so. Such discharge without any finding of any misconduct enables the employee to turn a new page in his life and save the reputation of himself and the employer in suitable cases.

85. Thus, even when the Industrial Employment (Standing Orders) Act, 1946 was enforced in the year 1946, the model standing orders introduced provisions therein both for dismissal by way of disciplinary action and termination of service by giving one month's notice or payment of one month's wage in lieu thereof."

The reasoning embodied in this judgement can be applied mutatis mutandi to our case also. Under the Reserve Bank of India Act, 1934, various obligations are cast on the Bank to transact Government business referred to in detail in different chapters. When Staff Regulation 9 speaks of appointment to service of the Bank, it must be understood that it will be for the efficient discharge of these functions. Appointment to service thus can be co-related to the performance of functions. It is therefore clear that the power to determine the services of an employee when there is loss of confidence cannot be termed as unconstitutional.

29.35 However, my attention has been invited to a number of decisions of the Supreme Court on the interpretation of Section 25F of the Industrial Disputes Act. That Section sets out the conditions precedent to retrenchment of workmen. No workman employed in any industry, who has been in continuous service for not less than one year, shall be retrenched until, to say in short, he is given one month's notice in writing indicating the reasons for his retrenchment, compensation as provided, as also notice in the prescribed manner is served on the appropriate government. The first part, namely notice, does not apply if the retrenchment is under an agreement, which specifies the date of termination of service. The term "retrenchment" has been defined under Section 2(oo) of the Act, which reads as follows :

"2(oo) 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment

inflicted by way of disciplinary action, but does not include—

- (a) Voluntary retirement of the workman ; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or
- (c) termination of the service of a workman on the ground of continued ill-health."

29.36 The expression "retrenchment" was the subject of interpretation in a number of recent Supreme Court judgments. In 1976 1 LLJ 478, *State Bank of India vs. Sundaramoney*, a Bench consisting of three judges of the Supreme Court stated as follows :

"For any reason whatsoever—very wide and almost admitting of no exception. Still, the employer urges that when the order of appointment carries an automatic cessation of service, the period of employment works itself out by efflux of time, not by act of employer. Such cases are outside the concept of "retrenchment" and cannot entail the burdensome conditions of S. 25F. Of course, that a nine-days employment, hedged in with an express condition of temporariness and automatic cessation, may look like being in a different street (if we may use a colloquialism) from telling a man off by retrenching him. To retrench is to cut down. You cannot retrench without trenching or cutting. But dictionaries are not dictators of statutory construction where the benignant mood of a law and, more emphatically, the definition clause furnish a different denotation. Section 2(o) is the master of the situation and the Court cannot truncate its amplitude."

29.37 Another decision on the point is in 1977 1 LLJ page 1, *Hindustan Steel Ltd. vs. State of Orissa*, in which the decision in *Sundaramoney's* case was reaffirmed on the contention that it was necessary to reconsider the findings in that case as it was in conflict with the decision in 1957 S.C.R. 121, *Hari Prasad Shivshankar Shukla vs. A. D. Divakar*. In 1980 11 LLJ 72, *Santosh Gupta vs. State Bank of Patiala*, the Supreme Court has held that termination on the ground of the employee not passing the prescribed test for confirmation would amount to retrenchment. In 1981 11 LLJ 70, *Mohanlal vs. Bharat Heavy Electricals Ltd.*, it was reiterated that in a case which does not fall within one of the exceptions of Section 25F, the termination would amount to retrenchment.

29.38 In view of these judgments, Regulation 25(2) can not be resorted to only subject to section 25F of the Industrial Dispute Act in the case of an employee covered by Section 25F of the Industrial Disputes Act. Although the reference before me is in relation to the Class III employees of the Bank, I understand, from discussions, that there are some categories of Class III employees who are not workmen. Therefore, Regulation 25(2)(a) will have its application, Clause 2(a) in relation to employees in Class I and Clause 2(b) in relation to employees in Class III who are not workmen under the Industrial Disputes Act. On this consideration, I am not inclined to delete clause 2(b) although I have no hesitation in saying that the exercise of the power under this Regulation will not be justified when it conflicts with the protection given to a workman under Section 25F of the Industrial Disputes Act. In passing, I should refer to the decision reported in 1981 1 LLJ 1, *LIC vs. D. J. Bahadur*, which laid down by majority that the Industrial Disputes Act is the special Act qua the LIC Act. The observations in paragraph 54 are material, which are as follows :

"54. What is special or general is wholly a creature of the subject and context and may vary with situation, circumstances and angle of vision. Law is no abstraction but realises itself in the living setting of actualities. Which is a special provision and which general, depends on the specific problem, the topic for decision, not the broad rubric nor any rule of thumb. The peaceful co-existence of both legislations is best achieved, if that be feasible, by allowing to each its allotted field for play. Sense

and sensibility, not mechanical rigidity give the flexible solution. It is difficult for me to think that when the entire industrial field, even covering municipalities, universities, research councils and like, is regulated in the critical area of industrial disputes by the I.D. Act, Parliament would have provided an oasis for the Corporation where labour demands can be unilaterally ignored. The general words in Ss. 11 and 49 must be read contextually as not covering industrial disputes between the workmen and the Corporation. Lord Haldane had, for instance, in (1915) A.C. 885(891) observed that (The Political Tradition: The Lord Chancellors, 1912-1940 page 221):

"general words may in certain cases properly be interpreted as having a meaning or scope other than the literal or usual meaning. They may be so interpreted where the scheme appearing from the language of the Legislature, read in its entirety points to consistency as requiring modification of what would be the meaning apart from any context, or apart from the general law."

To avoid absurdity and injustice by judicial servitude to interpretative literality is a function of the Court and this leaves me no option but to hold that the I.D. Act holds where disputes erupt and the L.I.C. Act guides where other matters are concerned. In the field of statutory interpretation there are no inflexible formulae or fool-proof mechanisms. The sense and sensibility, the setting of the scheme, the perspective and the purpose—these help the Judge navigate towards the harbour of true intent and meaning. The legal dynamics of social justice also guide the Court in statutes of the types we are interpreting. These plural considerations lead me to the conclusion that the I.D. Act is a special statute when industrial disputes, awards and settlements are the topic of controversy, as here. There may be other matters where the L.I.C. Act vis-a-vis the other statutes will be a special law. I am not concerned with such hypothetical situations now."

We are concerned with the conflict between the Staff Regulations and the special legislation. If a legislation has to yield to the provisions of the Industrial Disputes Act, the Staff Regulations granting the power to terminate the services of an employee have to yield to the provisions of the Act and so Regulation 25(2)(b) can be resorted to only subject to section in 25F of the Industrial Disputes Act in respect of workmen governed by the Industrial Disputes Act. Regulation 30

29.40 Regulation 30 is as follows :

- 30(1) "An employee transferred from one appointment to another or confirmed in a grade or appointment higher than his substantive grade or appointment, shall be liable to be reverted without notice at any time within one year of such transfer or confirmation.
- (2) An employee who has been appointed to officiate in a higher grade or appointment, or whose confirmation in a higher grade or appointment is subject to his undergoing probation for any specified period or otherwise, shall be liable to be reverted without notice at any time, when he is so officiating or undergoing probation.
- (3) Nothing in sub-regulations (1) and (2) shall affect "the provisions of Regulation 47."

29.41 In this connection, the Association states as follows :

Under Regulation 30, the Bank can revert a confirmed employee within one year of his confirmation to the higher grade. This Regulation nullifies the conditions of promotion including the test given by the employee before his promotion to the post before the competent board. Reversion of an employee under this regulation amounts to sitting in judgement over the competent board which selects the employees for promotion. The powers under this regulation are

arbitrary that the Bank is under no liability to give an opportunity to the employee concerned to know the reason for his demotion by the Bank. The Association has denied that it is the sole authority or prerogative of the management to decide whether the employee should be allowed to continue to officiate in the higher post. The other unions have raised the same contentions.

29.42 According to the Bank, under this Regulation, the competent authority is empowered to revert an employee to his substantive grade within one year from the date of his confirmation in higher grade. It is for the management to decide whether a particular employee is suitable to be continued in the higher post or not. If the employee is not suitable, he can be reverted to his substantive grade. It is necessary in the interest of the administration that the employee continues to maintain his efficiency even after his confirmation. It is therefore the Bank's submission that the provisions of Regulation 30 are in order.

29.43 Regulation 30 speaks of reversion. As the Regulation now stands, its application is envisaged to two types of employees. The first type is an employee transferred from one appointment to another and the other type is the employee confirmed in a grade or post higher than his substantive grade or appointment. Now the power given by this Regulation is to bring back any such employee to his previous position without notice, within one year after such transfer or such confirmation. If a person transferred to one appointment is to be brought back to his previous position, it could also be viewed as another transfer and the Bank has every right to do it. Enabling provision in Regulation 30 is that the person is not found suitable for the transferred position and, therefore, instead of making him work at the changed position, he could be directed to work at the original position from where he moved to that position. However, the wording of Regulation 30, as regards other categories, as it stands, cannot be maintained. The Regulation speaks of employees confirmed in a grade or appointment. A confirmed employee has a substantial right and to bring him back amounts to his reversion. Any management would not think or act towards confirming a person unless by all standards and verification, the employee is found fit for confirmation. When such confirmation is conferred on the employee one takes it for granted that he was suitable for that post. Therefore, once having come to the conclusion about the suitability of the employee in the changed position, it would be travesty of justice to say he is not suitable to bring him back. The Regulation suffers from the technical defect of the language. It contemplates to bring back the person to his substantive grade. As soon as an employee is confirmed in a post, and in particular to a higher post to which he is moved, that becomes his substantive post and the post from which he came, ceases to be his post or his substantive post. It would, therefore, be idle to say that he would revert back to his substantive post. On this ground as well as on the ground that confirmation of an employee is to be looked upon as the employee being suitable to the confirmed post, the Regulation as it stands today cannot be found to be proper. At best, it would be a case where there is grievance regarding working of a confirmed employee and there will be different remedy for the employee to be brought down or reverted. Consequently, the words in the second line "or confirmed in a grade or position higher than his substantive grade or position" and the last words "or confirmation" would stand deleted from this Regulation.

Regulation 31.

29.44 Cash Department and Karmachari Federation in the statement of claims dated 14th January, 1980, have demanded that Regulation 31 should be deleted.

29.45 It is the submission of the Bank that there is no need for amendment of the Bank's (Staff) Regulations. The Bank's Staff Regulations were framed in the year 1948 and have stood the test of time. These Regulations were scrutinised by the two National Tribunals which did not find anything undesirable in the Staff Regulations. An employer is entitled to stipulate conditions subject to which he will take any person in the employment. Unless the conditions are objectionable or illegal, no employee can challenge the same.

29.46 This Regulation speaks of the scope of an employee's service and lays down that the whole time of the employee shall be at the disposal of the Bank and shall serve the Bank in such capacity at such places as he may, from time to time, be directed. The Cash Department have opposed this. But this appears to be a condition of service of any good organisation. There is nothing obnoxious in the statement that the whole time of the employee shall be at the disposal of the Bank. This has necessarily to be read with the provisions for hours of work and overtime, etc. It is the ultimate concept of service. I am not impressed with any attack against the same. The Regulation will remain as it is. Regulation 35.

29.47 Then we come to a somewhat controversial Regulation. It is Regulation 35, which reads as follows:

35. "No employee shall take an active part in politics or in any political demonstration, or stand for election as member for a Municipal Council, District Board or any Legislative Body."

The say of the Association in this respect is as follows:

This Regulation prohibits the employees of the Bank from taking an active part in politics or in demonstrations or stand for election as member of Municipal Council, district board or any legislative body. The fact that the Bank had itself not objected to the deletion of this regulation clearly shows that the Bank accepts that this clause is violative of Article 19 of the Constitution of India. In this connection, the Association has referred to the judgement of the Patna High Court in the case of Kameshwar Prasad and others vs. the State of Bihar, 1962 1 LLJ, 294, wherein Rule 4-A of the Bihar Conduct Rules prohibiting a Government servant from participating in demonstration was struck down by the High Court on the ground that it was violative of Articles 19(1)(a) and (b). At the time of arguments, some unions supported the stand taken by the Association.

29.48 This Regulation embodies prohibition against participation in politics and standing for elections to different bodies. This is a sort of disciplinary Regulation. It shall have to be viewed on the principles as to what the management desires and the manner in which the management wants to organise its business. The employee distracting himself by taking part in politics or standing for elections to different bodies, if not liked by the management, should have no say that he would do the same and still would continue in the employment of the Bank. It would be always open to him to leave the job and follow his pursuit guaranteed by the Constitution. It looks to be a lapse on the part of the Bank that they have not stated anything about his Regulation in their statement. But I did not gather at the time of argument that the Bank is in favour of its deletion. The argument that because the Bank has not said anything about it, the Regulation should be struck down cannot, therefore, be appreciated.

29.49 On behalf of the Association, the ruling reported in 1962 1 LLJ, 294, Kameshwar Prasad vs. Bihar was it seems, however, that the ruling does not help the Association. The point decided appears to be quite different. Rule 4-A of the Bihar Civil Service Conduct Rules prohibited government servants from participating in any demonstrations. The rule was struck down on the ratio that there could be peaceful and orderly form of demonstrations and there could be no prohibition for taking part in such demonstrations. In other words, the case relates to the demonstration part and that too peaceful demonstration. It does not say anything about taking part in politics or becoming a member of different elected bodies which divides the attention of an employee and therefore would be prejudicial to the devoted service to the Bank. I am not, therefore, in favour of deleting this Regulation. It is maintained as it stands. Regulation 35A.

29.50 This is the Regulation over which registered trade unions of standing have expressed differing opinions.

Regulation 35A is as follows:

35A(1) "No employee who is not a 'workman' within the meaning of the Industrial Disputes Act, 1947, shall—

(i) become or continue to be a member or office-bearer of, or be otherwise directly or indirectly

associated with any trade union of the employees of the Bank who are 'workmen' within the meaning of that Act, or a federation of such trade unions;

- (ii) resort to, or in any way abet, any form of strike or participate in any violent, unseemly or indecent demonstration in connection with any matter pertaining to his conditions of service or the conditions of service of any other employee of the Bank.

- (2) In relation to an employee who officiates in a higher grade or post which is not a grade or post of a 'workman' as aforesaid, this Regulation shall also apply for so long as such employee officiates in such higher grade or post."

29.51 Referring to the objection on jurisdiction that the Tribunal cannot decide about non-workmen, the Association has challenged that statement as it takes away the right not only of non-workmen who are not covered by the Industrial Disputes Act but affects the workmen also as they rose up and go over to become officers. According to the Association the Regulation is part of the service conditions of the workman concerned in the dispute. This Regulation is violative of Article 19(1)(c) of the Constitution which gives fundamental right of becoming a member of any Association. The Association being trade union, it has every right to seek deletion of this Regulation which takes away the fundamental rights of its members to join any association of his choice. It is the submission of the Association that even if this Regulation takes away right of non-workman, the workman employee can still raise industrial dispute in regard to this Regulation as it infringes the right of a workman which has been promoted to the category of non-workman employee. In support of its contention, the Association has referred to the Supreme Court judgement reported in 1958 II LLJ, 500, *Assam Cha Karmachari Sangh vs. Dimakuchi Tea Estate*, wherein it was held that if the dispute is regarding employment, non-employment, terms of employment or conditions of labour of non-workmen in which the workmen are vitally interested, the workmen may be able to raise an industrial dispute. It is the submission of the Association that as this Regulation is aimed at workmen, who on their promotion become non-workmen, the Regulation is *ultra vires* the constitution.

29.52 Tracing the history of Regulation 35A, the Association has stated that this regulation was incorporated sometime in 1966 with a mala fide intention of snatching away the fundamental trade union rights of a section of the members of the Association. Under the Constitution of the Association and its constituent units, all categories of employees are eligible to become members of the association and can continue to so long as they desire. Since the inception of the Bank in 1935, the Association is the sole recognised representative of all Class III and Class II employees of the Bank. However, from 1965, the Bank started imposing various unreasonable restrictions on the members of the Association who were supervisory staff, with an intention of preventing them from participating in the activities of the Association to break unity of the employees and weaken their collective strength.

29.53 Dealing with the circumstances in which the writ petition upon which reliance is placed by the Bank, it is said that the petition was filed by Shri A. K. Sen on the basis of the tripartite Settlement dated 16th September 1966 under the auspices of the Regional Labour Commissioner (Central), Calcutta. Under the settlement, the Regulation was to remain inoperative until its validity or otherwise was decided by the Court. The Association has denied that the learned single judge of the Calcutta High Court has upheld the vires of the Regulation 35A on merits. In any case, the appeal filed against the judgement was not heard on merits by the division bench as contended by the Bank but was disposed of on the technical ground that the petitioner Shri A. K. Sen was no longer in the employment of the Bank. It is the submission of the Association that such disposal of the writ petition cannot deprive the right of the aggrieved employees of the said category who are still in the Bank's service either at Calcutta or elsewhere.

29.54 Mr. Gadkari for the Coordination Committee wholly supported these contentions. As against this, the Organisation and the Karmachari Federation represented by Mr. Dudhia are in favour of retaining the Regulation.

29.55 It is the submission of the Bank that it is not open to the workmen to challenge the provisions of Regulation 35A as it does not affect them. Without prejudice to the above they refer to the writ petition filed in the Calcutta High Court by Shri A. K. Sen, the General Secretary of the All India Reserve Bank Employees' Association challenging the vires of Regulation 35A. The Bank says that the learned single judge of the Calcutta High Court, by his judgement dated 12th January, 1973, was pleased to uphold the vires of the Regulation 35A and in appeal also that finding is not disturbed. In view of this, it is not open to the Association to challenge this Regulation.

29.56 The Regulation embodies a bar against an employee, who is not a workman, and who wishes to continue to be a member or office bearer of any association or trade union for the welfare of the workmen. Differing stand taken by different trade unions illustrates the difference in their view point or the approach. Whereas one union contemplates the employee retaining his struggling attitude for the benefit and welfare of his co-workers even after his attaining higher position, the other union feels like containing the movement to the class termed as workmen in the Industrial Disputes Act. Here, two principles are involved. One principle is that it should be open to the man to work for those from whom he came up; the other principle is that such a person not being directly concerned in any dispute may take an adamant attitude not ultimately to the full benefit of the workmen. It is assumed that only the person from the very class can talk and feel more acutely about the welfare of the co-workers.

29.57 To overcome the objection of the Bank, that making any change in the Regulation would be outside the jurisdiction of the Tribunal sitting for adjudication on workmen alone, Mr. Phadnis relied on the decision reported in 1958 I LLJ, 500, *Dimakuchi Tea Estate (supra)*. This decision relates to the rights of the workmen to agitate about an industrial dispute where the persons raising the dispute are not directly concerned with the result of that dispute. Because the dispute is within the definition of industrial dispute viz. "dispute or difference between employers and employees, or employers and employees or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or with conditions of labour of any person", the term "any person" has been interpreted as any person relating to whom industrial dispute could be raised. In that light it is said that the contention raised relates to the condition of labour.

29.58 In the present case, a person becoming office bearer would normally have been belonging to the class of workmen and even if something is stated about that person after his becoming a non-workman certainly, that relates to his conditions of service as to what becomes of his otherwise undenied right. Secondly, the persons who form the class of employees who are workmen can surely speak about the conditions of service of a person in whom they have intimate interest so far as their own conditions of service are concerned. The objection of the Bank on the ground that the employees who are not workmen cannot speak regarding this Regulation cannot, therefore, be sustained.

29.59. I do not, however, think that the Regulation is worth deleting. All that could be said against the Regulation would be that it is against Art. 19 of the Constitution which guarantees freedom of association. It could, therefore, be said that a person who has become a non-workman and who wishes to continue to be a member or office-bearer of a trade union should have the absolute freedom to associate himself with the union to which he belonged even if he has become a non-workman. In the first place, constitutional concept of freedom under Article 19 and other related articles have to be viewed on 'reasonable restrictions'. The pertinent question would, therefore, be whether the restriction put on the person on becoming non-workman not to associate with the unions with whom he was associated while he was a workman is an unreasonable restriction. If the Reserve Bank of India does not desire that their officers should take active part in trade union movement of Class III employees, it is difficult to say that the bar is unreasonable.

29.60 Apart from this, the Reserve Bank being an employer would have its own way of organising it. The Tribunal would not adjudicate about it or snatch away that right of the management. We get the position that the Reserve Bank desires not to confer a right on the employee to associate with the trade union to which he already belonged. Any citizen has a fundamental right to associate with any association. The conflict here would not be in the sense of snatching away his fundamental right but giving him an option to choose whether if he wants to continue in the service of the Bank he should conform to the contractual conditions of the employment or choose not to be in employment at all. In other words, the Reserve Bank does not bar him from joining any association but it says that if he wants to continue in the employment, do not join a particular association. This is the contractual part upon which the Bank can certainly have its own say and that contractual part does not appear to be any way invalid.

29.61 This question was adjudicated in Civil Rule No. 2735 W 1966, in Ashis Kusum Sen vs. Reserve Bank of India, by the Calcutta High Court, and contentions of the petitioner were negated. Incidentally, the matter was taken in appeal and the appeal was dismissed but not after discussing the merits. The original petitioner had ceased to be in the employment of the Reserve Bank and the appeal was found infructuous and, therefore, dismissed. However, I respectfully adopt the reasoning of the High Court. I, therefore, do not see any case for deletion of any portion of Regulation 35A.

Regulation 36

29.62 Next for discussion is Regulation 36 which puts a ban on the employee in communicating with press. Regulation 36 is as follows:

36. "No employee may contribute to the press without the prior sanction of the competent authority or without such sanction make public or publish any document, paper, or information which may come into his possession in his official capacity."

In this connection, the Association says that the Regulation is violative of Article 19 of the Constitution of India and therefore bad in law. The Association has opposed this Regulation on the ground that the Bank has misused this Regulation by prohibiting the employees from contributing to the press irrespective of whether such contribution was based on the information which could come into possession of the employee in his official capacity or whether such contribution was fiction or stories or matters unconnected with the affairs of the Bank. Such restriction apart from being violative of the freedom of speech and expression, requires to be struck down on the ground that it has been misused by the Bank. Other unions support the Association.

29.63 According to the Bank this Regulation merely provides that no employee should contribute to the press without the prior sanction of the competent authority. Such a regulation is found in the service rules of the statutory corporations. The Bank being the Central Bank of the country solely owned and controlled by the Government of India, it is the submission of the Bank that the service conditions of the employees of the Bank should be in line with the service conditions of the Government servants. The Bank has also adverted to paragraph 2.3 of the Desai Award and paragraph 3.22 of the Aiyar Award. Having regard to this, it is said that it is not open to the Association to challenge this Regulation. If an individual employee has any grievance against the decision of the competent authority, it is always open for him to raise industrial dispute regarding such grievance or alternatively to challenge the action in a court of law. Thus according to the Bank there is no case for deleting Regulation 36.

29.64 Regulation 36 relates to contributions to the press that can be made by an employee. I do not think that there is anything objectionable in the spirit in which the Regulation is drafted. It places a bar on the employees contributing to the press without prior sanction of the competent authority and also prohibits him from using without such sanction any document, paper or information which comes into his possession in his official capacity. This would be to protect the interests of the Reserve Bank and to control irresponsible comments or criticism. The arguments of the unions related to the first part of Regulation 36, which to my mind, is worded very broadly. The Regulation prohibits employees

from contributing anything to the press without the proper sanction. It puts fetters on literary, domestic or any type of contribution. Looking to the freedom guaranteed by the Constitution to a citizen, such absolute power looks unreasonable. My attention was however invited to the correspondence between Deputy Manager, Reserve Bank of India and the Secretary, RBI Officers Association. The Regulation applies equally to the officers and as such the letter dated 12th June, 1978 is relevant. Chief Manager's communication dated September 7, 1974 is also relevant. Under the 1974 communication, what is stated is as follows:

"....The existing requirement that articles, materials, etc. intended for publication should be submitted to the Bank for screening has been introduced in order to ensure that the subject matter of the articles, etc. is not controversial or likely to embarrass the Bank or the Government and that it does not contain any confidential/unpublished material. Having regard to these valid considerations, the Bank have decided that the existing instructions requiring prior clearance from a competent authority in the Bank of all articles etc. should continue....."

Thus the subject is mentioned but the restrictions continue. Only an expeditious and reasonable outcome can be expected out of these endeavours. So far as the 12th June, 1978 letter is concerned, the material part is as follows:

"Permission to contribute to the Press/AIR/T.V.

1. The prior permission of the Bank need not be obtained by employees if the subject matter of the articles to be published/broadcast/televised is purely literary, artistic or scientific in character but it is necessary to send the same to the Bank for information.
2. In all other cases, prior permission of the Bank should be obtained by employees before contributing the articles/material to the Press/AIR/T.V., etc.
3. The employees so permitted as well as those covered by item (1) above should not disclose their connection with the Bank."

Looking to the entire matter with dispassionate view, I feel that the employee is still subjected to undue fetters in relation to matters not connected with the Bank. If the objective outlined in the 1974 communication is to be respected and at the same time the fundamental right of an employee is to be respected, the point could be achieved if certain words are added after the first clause. The prohibition in contributing to the press could be stated with the expression 'anything relating to the affairs of the Reserve Bank.' The relevant clause, therefore, would read as follows:

"No employee may contribute to the press anything relating to the affairs of the Reserve Bank of India without the prior sanction of the competent authority."

The further part would remain unchanged. With this modification, the Regulation would stand.

Regulation 37

29.65 Regulation 37 is as follows:—

37. "No employee shall accept, solicit or seek any outside employment or office, whether stipendiary or honorary without the previous sanction of the competent authority."

The say of the Association in opposing the Regulation is as follows:—

The Bank has been misusing its powers under this Regulation and insists on prior permission for participating even in social associations/organisations, co-operative movements, trade unions, educational, cultural and public organisations which are not in fact employment but can be considered as participation in such bodies. Such participation does not and cannot amount to taking up an employment. Thus, this Regulation is bad in law and requires to be struck down.

29.66 According to the Bank, the Regulation prohibits an employee from accepting or soliciting an outside employment whether stipendiary or honorary without previous sanction of the competent authority. It is the submission of the Bank that having regard to Regulation 31 under which an employee of the Bank is required to devote his entire time to the affairs of the Bank, the full time employee cannot take up any other appointment at the same time. If however, an appointment to be accepted is not of a commercial nature and is not likely to interfere with his duty as an employee of the Bank, such permissions are given by the competent authority after considering the individual cases on merits. Thus there is no case for deleting or changing this Regulation.

29.67 This Regulation is against accepting or soliciting any outside employment or office whether stipendiary or honorary, without the previous sanction of the competent authority. The title to this Regulation shows that the purpose is to prohibit seeking outside employment. The word 'employment' has its own weight and the Regulation will have to be read keeping in mind the denotation of that word. The purpose of the Regulation is wholesome and salutary. Although there may be some difficulty in directly participating with some of the activities, for instance, the co-operative movement or trade union movement, the Bank appears to be within its right to see that the employee does full justice to the Bank employment and devotes his time to the duty assigned to him. The prohibition is not absolute prohibition, permission of the competent authority could be obtained. Even if it is withheld unreasonably or mala fide, the remedy could be thought of. As the Regulation stands, therefore, I do not propose any change.

Regulation 38.

29.68 Regulation 38, which is to be discussed is as follows:

38. "No employee shall undertake part-time work for a private or public body or a private person, or accept fee therefor, without the sanction of the competent authority which shall grant sanction only in exceptional cases when it is satisfied that the work can be undertaken without detriment to his official duties and responsibilities. The competent authority may, in cases in which it thinks fit to grant such sanction, stipulate that any fees received by the employee for undertaking the work shall be paid, in whole or in part to the Bank."

29.69 The say of the Bank is as follows:—

The position stated above in respect of Regulation 37 holds good for Regulation 38 also. This Regulation prohibits the employee from undertaking part-time work for any private or public body with or without remuneration.

29.70 This Regulation prohibits employees from doing part-time for outside bodies. For the reasons discussed while upholding Regulation 37, this Regulation also will have to be maintained as it is.

Regulation 42.

29.71 Next for discussion is Regulation 42, which is as follows:—

42. "No employee shall engage in any commercial business or pursuit either on his own account or as agent for others, nor act as an agent for an Insurance Company, nor shall he be connected with the formation or management of a joint stock company."

29.72 According to the Bank, the Regulation prohibits the employee of the Bank from engaging in any commercial business or pursuit. It is not open to any employee of the Bank to continue to be an employee of the Bank and at the same time engage himself in commercial business and oppose the Regulation.

29.73 The Regulation prohibits private trading by an employee either on his own account or agents for others and also prohibits his being connected with the formation or management of a Joint Stock Company. To my mind, these are all salutary prohibitions and nothing need be said against the same. The Regulation is maintained.

Regulation 45

29.74 There was some discussion about Regulation 45 suggesting that it works in harassing the employee even when he is in ordinary debt. The Regulation 45 reads as follows:—

45. "An employee who is in debt shall furnish to the competent authority a signed statement of his position half-yearly on the 30th June and 31st December, and shall indicate in the statement the steps he is taking to rectify his position. An employee who makes a false statement under this Regulation or who fails to submit the prescribed statement or appears unable to liquidate his debts within a reasonable time or applies for the protection of an insolvency court shall be liable to dismissal."

Explanation 1.—For the purpose of this Regulation an employee shall be deemed to be in debt if his total liabilities exclusive of those which are fully secured exceed his substantive pay for twelve months.

Explanation 2.—An employee shall be deemed to be unable to liquidate his debts within a reasonable time if it appears having regard to his personal resources and unavoidable current expenses that he will not cease to be in debt within a period of two years.

29.75 The Regulation casts a burden on the employee, who is in debt, to furnish a signed statement of his position half yearly. Explanation to the Regulation defines when a person is to be treated as in debt. The secured liabilities are to be excluded and it is only when the unsecured liabilities exceed 12 months pay that a person would be termed as in debt for the purpose of this Regulation. Explanation 2 to the Regulation speaks as to when he is to be reckoned as unable to liquidate his debts. That has to be understood from his personal resources and current expenses. This is not, therefore, relating to debts which could be called ordinary indebtedness. The Regulation is perforce to be understood on the background of the position of an insolvent or person about to become insolvent. Fetters are always put on insolvency and an insolvent is often looked upon as a disqualified person. If the Bank desires to have a full picture of an employee who is in debt within the standards laid down by the explanation, it is not a matter where it could be said that the Bank is unnecessarily dabbling with the affairs of the person. On the contrary, the Bank should always display anxiety to see that the employees are placed in a position to give their best. An indebted person would not be in such a position. If the Bank wants to dismiss such a person or wants to discourage incurring disproportionate liabilities, nothing wrong would be found with it. I am told that as a matter of fact, the Bank is giving a kind treatment so that even undischarged insolvents are not dismissed from Bank's service but are allowed to work at positions where there would be no temptations. In other words, the Regulation is applied not to harass the employee. The existence of such Regulation would curb the tendency of incurring irresponsible debts. The Regulation as it stands is maintained.

Regulation 89.

29.76 This Regulation deals with calculation of 'Leave Pay'. It runs as follows:—

89. "An employee on ordinary leave shall draw a pay equal to his leave pay."

29.77 The Association has in this connection stated that the Regulation has been wrongly applied by the management to deprive the employees who were on ordinary leave on the date of effect of the last Settlement. Therefore, it is the submission of the Association that this Regulation may be deleted.

29.78 Regulation 89 speaks of calculating pay during ordinary leave. It appears that formerly leave salary was given at average pay. This position was changed and now the employee on ordinary leave shall draw pay equal to his leave pay. Leave pay has been defined in Regulation 3(j) as follows:

"leave pay" means the monthly pay drawn by an employee immediately before proceeding on leave."

Leave pay has to be regulated in some manner and what has been done looks quite equitable. I cannot appreciate any objection against this Regulation. The same is, therefore, maintained.

CHAPTER XXX

Item No. 19 : Grain Shop Facility.

30.1 It is the case of the Association, Organisation and also Cash Department and Karmachari Federation that grain shops should be opened for the supply at reasonable price and good quality of food grains and other articles.

30.2 It is the say of the Co-ordination Committee that a fair-price shop should be run by the Management directly or the entire financial requirements on co-operative basis should be made by the Bank while giving cent per cent subsidy towards the establishment expenses.

30.3 It is the submission of the Bank that the demand made by the Workmen Organisation and the Employees' Association is devoid of any force. Bank has relied upon chapter 12 of the Desai Award (Reserve Bank) wherein Justice K. T. Desai held that no case was made out for giving any direction to the Bank about the establishment of the grain shop by the Bank and the claim was therefore rejected. The Bank has referred to para 4 of Chapter 55 of the Third Pay Commission wherein similar demand for grain shop facility was rejected by the Commission on the ground that supply of certain essential commodities on subsidised rates is not a feasible proposition.

30.4 The relevant discussion in Desai Award is as follows :

"12.1.—The Association has pleaded that the provision for supply of food grains, clothing materials etc. to the employees "at subsidised rates" from shops established by institutions in which they are employed is but a measure of concession which gives certain amount of protection to the real wage of an employee affected by rises in the price level of the commodities supplied. The Association has demanded that the system of subsidised grain shops, should be revived. The Union has submitted that in order to offset the effect of any sudden rise in prices, this matter should be duly considered.

12.2.—The Reserve Bank in reply has pleaded that it is no part of the conditions of service or of employment of Reserve Bank employees that the Reserve Bank provide grain shops or supply grains at subsidised rates, that the matter was one entirely within the discretion of the Reserve Bank and this discretion should not be interfered with and that the demand should be rejected.

12.3.—Under this Award dearness allowance is linked up with the all-India working class consumer price index number and provision has been made in respect of the subsequent rise in prices. In my view, no case is made out for giving any directions to the Bank about the establishment of grain shops by the Bank and the claim is rejected."

30.5 This demand has to be looked upon as facility rather than as condition of service. The total pay packet of a Reserve Bank employee is reasonably high so that grains should not be a condition of service. During the arguments it was said by Shri Devidas Pai for the Organisation that as a matter of fact, grain or other commodities are not in fact available at prices which are reckoned as prices while fixing the Consumer Price Index and therefore, grain shops should be opened where grains could be purchased at government prices. Mr. Phadnis for the Association also spoke of the textile mills where such grain shops are said to be running and that the Bank in any case should extend help in starting such grainshop facilities.

30.6 When the pay-structure of a Bank clerk is conceived in terms of dearness allowance, one cannot see the absolute necessity of directing the management to run a grain shop. Apart from that, as was pointed out by the management, the proposition is fraught with tremendous administrative difficulties. It is not a small matter to run grainshops. Grainshop requires that grain should be sold in a manner that gives no scope for any complaint. Running a grainshop also requires manpower. Even in the case of running canteens, practical difficulties arise. I can appreciate the difficulties of the Reserve Bank if the grainshops are to be managed as a unit run by the Bank. Besides, there would be the usual

difficulties of stock not being available or temptation to give undue preference, let alone the allegations of mis-management, etc. It does not, therefore, appear to be a satisfactory practical proposition nor does it appear to me incumbent to give any directions to the Bank in this connection. Hence, the demand is rejected.

CHAPTER XXXI

Item No. 20.—Welfare facilities like canteen, sports, recreation, holiday home etc.

31.1 In paragraph 21.1 of the Award Part I dated 17th June, 1981, it was held by this Tribunal that paragraph 11 of part IX of the Settlement (Yellow book) between Bank and the Association did not show that anything had been finally decided. Therefore this paragraph was ignored by the Tribunal while approving that settlement.

31.2 The Association, in its statement of claims dated 1st July, 1981 has made the following demands in respect of item 20.

(a) Canteen Facilities :

- (i) The quantum of subsidy to employees' canteen should be enlarged so that the canteen establishments are in keeping with the lounge establishments for officer cadres, the wages, other benefits, etc. of the canteen staff being placed on par with lounge staff.
- (ii) Canteen facilities should be extended to the employees at all centres and in all buildings at any particular centre where different departments are located.
- (iii) Subsidy should be extended to cover a portion of the expenditure on purchase of raw materials.
- (iv) The percentage of subsidy on fuel etc. should appropriately be enhanced.

(b) Sports & Recreation Clubs :

- (i) Annual Grants to sports or recreation clubs should be substantially enhanced.
- (ii) Due encouragement should be given to talented sportsmen in the matter of recruitment, leave facilities, other privileges etc.
- (iii) The Bank should sponsor periodic inter-office sports meets with the help of various sports clubs.

(c) Welfare Scheme :

- (i) Bank should establish and maintain Holiday Homes at important health resorts, hill-stations, places of tourist interest etc.
- (ii) Bank should extend financial or other assistance to brilliant or handicapped children of employees in their pursuit of higher studies or acquisition of skill.
- (iii) Bank should extend assistance to employees suffering from diseases like cancer, TB etc. and to employees who get disabled due to accidents.
- (iv) Bank should extend financial or other assistance to promote cultural and recreational activities by employees.

31.3 In their statement of claims dated 21st November, 1979, the Organisation has made the demand as under :

- (a) Canteen facilities should be uniform for all categories of the employees and the canteen should be one of the department of the Bank.
- (b) Grant to sports clubs should be substantially enhanced.
- (c) The Bank should create a fund for promotion of holiday homes, cultural recreation and other welfare activities.

- (d) Secretaries of the co-operative credit society, consumers' society and recreation clubs should be relieved on duty.

314 The SC/ST Employees' Federation in their statement of claims dated 21st July 1981 have demanded that the Bank should provide recognition, grant and other facilities such as free accommodation, furniture etc to SC/ST Federation which is purely for the welfare of the weaker section of the employees

315 The Co ordination Committee in its statement of claims dated 11th January 1980 has demanded that the canteen for the workmen staff should also be run by the Bank as in the case of officers. Alternatively, the entire establishment expenses should be borne by the Bank. In addition to the other subsidies, the financial requirements for running the canteen should be met by the Bank and sufficient number of representatives should be relieved from duty. The Co-ordination Committee has demanded that the entire cost for running of the Sports Club in the Bank should be borne by the Bank. The Co ordination Committee further demanded that the Bank should establish recreation club in each office of the Bank and should meet its running expenditure. The Bank should construct or acquire holiday homes, one in each State.

316 The Cash Department Union and Karmachari Federation say that the Cash Department employees are not allowed to go out and meet their visitors and are not able to receive even emergent messages from their families. Therefore, the Bank should provide separate external telephone connection in each section. The watchman at the entrance should be given a PBX connection so that the visitors can talk with the employee concerned from outside. Every Note Examination Section should have drinking water facility inside the Examination Section. The furniture of the Cash Department should be completely changed as is being done in other departments of the Bank. Adequate number of chairs should be provided in the Section to avoid "Musical Chair Competition".

317 In its reply dated 17th August, 1981 the Bank has submitted that having regard to the Order of reference dated 16th June, 1979 which is in regard to the Class III Employees of the Bank as a whole and not any segment or segments thereof, the demand of the SC/ST Employees' Federation should be rejected on this ground alone. Further there is no provision in the law for recognition of any section or Class III employees or providing any facilities to them. In its statement dated 19th February 1980, the Bank has submitted that the demand relating to the canteen is not an industrial dispute and therefore it is not competent for the Tribunal to give any directions in this regard to the Bank. The Bank has referred to paragraph 113 of the Desai Award where it was the submission of the Bank that there is no obligation on the Bank or for that reason or any other employer who is not covered by the Factory Act to provide canteen facilities and that facility is as purely by way of an amenity. Therefore, whether such amenity should be provided by the employer and if provided, what should be the manner in which it be given is a matter entirely within the jurisdiction of the employer concerned. Even otherwise, the demand for canteen facilities could be justified in case of poorly paid employees who may have to be provided with subsidised food or in case of the employees whose place of work is located at places which do not have adequate facilities for supply of food and refreshments. As the employees of the Bank are well paid and the offices are located in metropolitan cities and business areas there is no justification for such demand. In this connection, the Bank has referred to views of the Third Central Pay Commission which have been discussed at pages 23 and 24 of its statement of claims dated 29th February 1980. In its report, the Pay Commission had rejected the demand that the full cost of establishment of the canteens should be borne by the Government. They had recommended that the canteen should be more or less self supporting so far as its running expenditure was concerned and should not become a drain on the public revenue. Notwithstanding the above, it is the submission of the Bank that there are already adequate canteen facilities available to the employees of the Bank. The Bank has provided canteen facilities to its workmen in all the centres the management of which is either entrusted to a Co-operative society formed by the staff or to private caterers at smaller centres where it is not feasible to run a canteen because of the small number of staff at the

centre. The Bank has made arrangement to serve tea and other items of eatables by engaging services of Khitmatgars on No loss no profit basis.

318 In the case of a canteen which is run by co-op. society formed by the Staff, the following facilities are extended by the Bank to the co-operative society.

- (1) The space is given at nominal rent of Re 1 per month.
- (2) Suitable interest free advance is given for the purpose of furniture such as cupboards, other equipments, cutlery, crockery, other equipments and kitchen instruments.
- (3) With effect from 1st July 1981, the extent of subsidy towards establishment charges has been enhanced to 75 per cent from 50 per cent. This includes the salary of the canteen staff. The Bank reimburses 100 per cent of the fuel charges incurred by the society. Further the Bank reimburses 75 per cent of the Provident Fund of the canteen staff and meets 75 per cent of the expenditure on the liveries of the canteen staff. In addition to it, the Bank grants subsidy at the rate of Rs 2.50 p per head per day towards the food allowance to the canteen staff. Further 100 per cent of the water charges and electricity consumption charges in the canteen also is borne by the Bank.

An office bearer is released for half hour every day for canteen work. For Byculla office canteen the office bearers are released 2 hours per day during week days and 1 hour on Saturday. In case of Amar Building Canteen, two office bearers of the canteen are released for canteen supervision work on full time basis and 2 office bearers on part time basis.

319 Offices where the canteen has been entrusted to a private caterer, the Bank allows the use of space and furniture at a nominal rent and free use of electricity for fans light in the canteen. The rates charged by the canteen are approved by the Bank and they are always much lower than those charged by the restaurants in the vicinity. In addition to this a cash subsidy of Rs 2500 was paid to the canteen at MVIRD Centre, Bombay.

3110 The Bank has referred to the observations made by the National Commission on Labour, presided over by Dr P. B. Gajendragadkar, former Chief Justice of India. In paragraph 135 of its report, the Commission had recommended that wherever the canteens are run on co-op basis the employer should give subsidies in the shape of free accommodation, fuel, and light furniture & utensils. It is the submission of the Bank that all these facilities are already provided by the Bank. Similar demand was made before the Desai Tribunal by the Employees' Association and Union of Class III and Class IV employees respectively but the Learned Tribunal refused to issue any direction in this regard as it did not see any necessity of giving any such direction to the Bank.

3111 On the topic of Sports & Recreation facilities in its statement of Claims dated 19th February 1980, the Bank has submitted that the demand relating to the sports facilities and recreation facilities is not an industrial dispute and therefore, this Tribunal has no jurisdiction to give any direction in this regard. It is not in the conditions of service of any employee that he should be provided with sports and recreation facilities. The Bank has referred to the judgement of the Supreme Court in the Dhiringadhra Chemical Works vs their workers (1962) 1 LLJ page 197 SC wherein the Supreme Court set aside the award of a Tribunal directing the management to provide reading rooms and indoor games for the workmen on the ground inter alia that the wages payable to the workmen were fair, therefore it would not be right to require the employer to provide for the recreation of the workmen. Therefore, the demand for sports facilities and recreation facilities is not tenable in law.

3112 Without prejudice to the above, the Bank has stated that it provides adequate facilities in the Bank for sports and recreation clubs formed by the employees of the Bank. In all offices of the Bank, the employees have formed sports/recreation clubs to provide recreational facilities to their

members. The Bank makes suitable annual grants to these clubs with a view to supplement their income which they are expected to raise by collecting subscriptions from their members. While determining the size of the annual grant, the Bank takes into consideration the following factors:

- (i) Total staff strength of the office concerned;
- (ii) the membership of the club;
- (iii) income of the club through subscription;
- (iv) quantum of grant given during the previous year;
- (v) the club's performance in various sports activities;
- (vi) proposal regarding sports activities for the year for which grant is being considered.

Sports or recreation clubs are provided with rent free space to carry on their activities. Special grants are also given when the employees of the Bank represent India in the International meets held abroad and the concerned National Bodies expect the employees to share the expenses. In view of the above, it is the submission of the Bank that as adequate facilities for sports and recreation clubs are already provided, there is no need for increasing the same.

31.13 As regards Holiday Homes it is the submission of the Bank that the demand relating to the provision for holiday home is not an industrial dispute as it is not one of the condition of service of employees that the Bank should provide him with holiday home facility. In respect of this item also the Bank has taken the plea that this Tribunal has no jurisdiction to issue any direction to the Bank in this regard.

Without prejudice to the above, the Bank has submitted that it cannot establish holiday homes to its employees because it is not empowered to do so under the R.B.I. Act, 1934. Apart from this it is the submission of the Bank that with the introduction of scheme for encashment of leave, an employee who proceeds on leave fare concession would have adequate funds to meet the costs of his stay at the place of his visit. The employee can also avail 15 days salary as an advance for this purpose. Considering the high costs of Labour in the Reserve Bank of India, it would not be feasible for the RBI to provide the facility of holiday homes. In fact it would be unjust to provide the facility of holiday homes at public expenses. In view of the fact that the employees of the Bank are better paid than the category of employees elsewhere, it is the submission of the Bank that the demand made by the Association and others should be rejected.

31.14 The SC/ST Employees' Federation has demanded that the Bank should provide recognition, grant and other facilities, such as free accommodation, furniture etc. to their federation.

31.15 On the subject of providing canteen facilities, sports clubs, recreation facilities etc., the first test to be applied is whether these facilities form conditions of service. The discussion can start by citing the observations in one or two cases.

In 1961 1 LLJ 372, India General Navigation and Railway Company Ltd. vs. Its Employees, the observations are as follows:

"In the matter of canteen the tribunal directed the company to improve and enlarge the sitting arrangements and further that the workers should be given wholesome food at prices lower than the prevailing market rates. The appellant contends that it can only be reasonably asked to work the canteen on a no-profit basis and should not be exposed to the risk of losses by being asked to supply food at prices lower than the prevailing market rates. Another complaint is that the direction to improve and enlarge the sitting arrangements is too vague. The West Bengal Factories Rules, 1949, contains provisions on the question of accommodation to be provided in the canteen in rule 67, and provisions as regards the prices to be charged in rule 69 in Chapter V. The learned Solicitor-General who appeared before us on behalf of the appellant-company says that the company is willing to follow these rules. In our opinion, the provisions in these rules are sufficient to meet the reasonable demands of the

workmen. The only direction that need therefore be made on this question of canteen is that the company should provide accommodation and charge prices in accordance with rules 67 and 69 respectively of the West Bengal Factories Rules, 1949."

Similarly, in 1962 1 LLJ 179, Dhrangadhra Chemical Works Ltd. vs. their Workmen, the Supreme Court has observed as follows:

"We now come to the last point raised in this appeal. Under demand 18, the workmen claimed that the appellant should set up a recreation home with canteen, reading room and indoor games for their use. This demand was substantially allowed by the tribunal. We see no justification for this claim. We have earlier said that it is not possible to put up any permanent structure on the work as the land becomes submerged during the rainy season. Furthermore, in view of the fact that the wage fixed is fair, it would not be right to require the appellant to provide for the recreation of the workmen. We therefore set aside the award on demand 18 directing the company to set up recreation home for the workmen."

In view of these observations, it is clear that these facilities are to be viewed only as amenities provided by the management.

31.16 The Third Pay Commission, in paragraph 14 of its report, has observed as follows:

"14. The only important demand of the employees that has not so far been conceded by the Government is that the full cost of the establishment of canteens should also be borne by Government. If this demand was to be conceded, it would mean that the Government would be financing the canteens in toto (except the cost of material) while allowing them to be run by the staff. We are unable to recommend this course, as the canteen should be more or less self-supporting, so far as its running expenditure is concerned and should not become a drain on the public revenues. In the matter of food etc., the best arrangement would be to leave the management to the consumers; at the same time it is also necessary that the staff themselves feel responsible in some measure for the finances of the canteens, so that they would take adequate interest in their management."

At the time of arguments, parties showed anxious interest in getting the best of canteen facilities and also saying that Reserve Bank ought to encourage good sportsmen, give them all types of concessions, provide holiday home etc. The suggestions made in this behalf were almost general, except in the case of canteen where some concrete suggestions were made. In view of the legal position discussed, I should leave it to the good sense of the Reserve Bank to provide the employees with as much facilities as possible. It is heartening to note the tone of the statement given by the Reserve Bank. Regarding the subsidy to be given by the Reserve Bank for canteens, by a recent circular dated 1st September, 1981, the subsidy on establishment charges has been enhanced as referred to while summarising the statement of the Reserve Bank. That appears to be fair enough. The contention of the Organisation that canteen facilities should be uniform for all categories of employees and that the canteen should be run as a department of the Bank need not be pressed further to make it into a direction. As regards other amenities, claims or demands, they show that nothing concrete has been asked for and hence there should be no further discussion on them.

31.17 On behalf of SC/ST employees, it was demanded that they should be given free accommodation, furniture etc. These demands are outside the scope of the present reference. I cannot give them anything as a separate class, nor can I treat these demands as incidental to other matters. Similarly, I am not in favour of the suggestion that the entire cost of running their sports club should be borne by the Bank.

31.18 Cash Department staff have made the suggestion for providing drinking water for them while working. It is said that such a suggestion is required to be made. I am sure

Reserve Bank would at once look into this, if this facility is not already provided. The other suggestion relates to the furniture in the Cash Department. I do not think I should give any general directions in this regard. I should however, mention that I was impressed by a suggestion regarding cash counters. The Bank should immediately look into the matter. The suggestion was that public counters where persons sitting inside handle the notes or challans should be at a lower level than the counters over which the customers tender currency notes etc. I am told at present the level of the counters is the same in both cases, so that some customers may have a chance to extend his hand and play mischief.

31.19 Cash Department staff have also said about making arrangements whereby they can receive external telephone calls, while the persons are at work. I am afraid I have not fully understood the implications of this suggestion. If there is some emergency message to be conveyed to a person working in the Cash Department, the concerned person may have to talk to the caller. But emergency messages cannot be expected to be frequent and I am sure such messages would certainly be conveyed promptly and extending good facility to talk to the called where necessary. No employer or any other person would come in the way of such a message reaching the concerned party. There is no need to direct R.B.I. compulsorily to instal a telephone as suggested.

CHAPTER XXXII

Item No. 21.—Compulsory Insurance of employees in the Cash Department.

Item No. 24.—Discontinuance of Guarantee Fund in respect of employees in the Cash Department.

32.1 These two items can be discussed together. As regards compulsory insurance of employees, it is the submission of the Association that the very nature of work of handling large amount of currency notes/coins in the Cash Department and outside, as part of the duties of the employees in the Cash Department, involves great risk, is hazardous and therefore it is only fair and logical that the Bank, as an employer, should provide for these employees an insurance cover of adequate amount to protect them against these risks and hazards. It is not correct to say that shortages of cash is always the result of the lapse on the part of the employees. It is the management's contributory negligence due to which employees are put to avoidable strain. Therefore, it would not be correct to say that the insurance cover if provided would be of protection to the employees against their own negligence or defaults. It is the submission of the Association that the Fidelity Guarantee Policy and the guarantee fund are not in substitution of insurance cover against the risk and hazards of working in the Cash Department. Therefore the demand of the Association for adequate insurance cover is justified and should be granted by the Tribunal.

32.2 The Organisation in its statement of claims dated 20th November 1979 has demanded that every employee should be insured for Rs. 10,000 and the premium thereon should be borne by the Bank. In the Statement of claims dated 10th August 1981, the Organisation has stated that the Bank has deliberately tried to side track the issue by alleging that the Organisation has asked for insurance cover against the wrongful acts of the employees. The Organisation has submitted that the indifferent and callous attitude of the Bank towards the security arrangements of the Cash Department, has forced the Organisation to make this demand. Thefts and frauds have become a daily affair for which innocent employees have been subjected to penalty. The Organisation has demanded this insurance cover for the employees who have been made scapegoats for the Bank's indifferent and callous attitude.

32.3 On behalf of Karmachari Federation, Cash Department Union and Co-ordination Committee, similar demand has been made for providing an insurance cover for Rs. 10,000 for each employee working in the Cash Department. It is also said that premium should be borne by the Bank.

32.4 This suggestion is not accepted by the Bank. According to them, the Bank takes out Fidelity Guarantee Policy in respect of employees working in the Cash Department. Under the Guarantee Policy, the insurer reimburses to the Bank the direct and pecuniary losses that the Bank may sustain by reason of any act or act of dishonesty for any human

default or negligence committed by the person covered by the policy to the extent of amount guaranteed. It is, in the management's function to decide as to what extent a guarantee cover should be taken as the policies are taken out for the Bank's benefit. If the demand of the Organisation is that the Bank should insure itself to the extent of Rs. 10,000 in respect of each employees working in the Cash Department, the demand is liable to be rejected as management does not feel advised to accept the proposal to protect its interest. On the other hand if the demand of the Organisation is that the employee should be given insurance cover against his own wrongful acts under this policy, the demand is also liable to be rejected. Such guarantee policy is taken only for the benefit of the employer and not for the benefit of the employees. Further there is no practice in the commercial banks of taking out insurance cover for their employees against their own defaults. What is worse providing insurance cover against an employee for his own defaults will be against the public policy; as the employees will be insured against their own negligence or dishonesty. Such direction will be contrary to the public policy. In this connection the Bank has referred to Section 201 of the Companies' Act 1956 which provides that any provision for exempting any officer of the company against any liability which otherwise attaches to him in respect of any negligence, default, misfeasance, or breach of trust in relation to the company, should be void. It has been pointed out by the Bank that even a more plausible demand for insurance cover against the risk of injury or death in respect of Class IV employees was considered and rejected by the Desai Tribunal in paragraphs 23-1 to 23-3 of the Award.

32.5 It is the submission of the Bank that in addition to the fidelity guarantee policy, the Bank has constituted the statutory co-operative guarantee fund known as R.B.I. Employees' Co-operative Guarantee Fund to meet any pecuniary loss caused by the employee to the extent provided under the fund. The employees pay a small premium at the rates prescribed which is credited to the guarantee fund.

32.6 The Association in its statement of claims dated 10th August 1981 has submitted that it does not want to discontinue Fidelity Guarantee Fund. On the contrary, the Association demands that the present limit for coverage of risk under the guarantee fund scheme should be properly raised. The Association has complained that the Bank is invoking Regulation 47 of the Bank's (Staff) Regulations against the employees sustaining losses while working in the Cash Department, in order to term them as guilty of negligence. Such an action on the part of the Bank defeats the object of the fund and deprives the employees of the reliefs which they are entitled to get from this fund. The Association has further submitted that in view of the increased number of subscribers to this fund it is possible to widen the scope and limit for coverage of risk under the guarantee fund scheme to make it more effective instrument for relief for its members. It may be noted that under paragraph 5 of the supplementary agreement dated 21st November 1979, the Bank and the Association had agreed for a mutual review of the system of guarantee fund for increasing the present limit of coverage.

32.7 The Workers' Organisation, in their statement of claims dated 21st November, 1979, have demanded that the guarantee fund scheme applicable to the Cash Department employees should be scrapped and the amount refunded to the employees. In its statement of claims dated 10th August, 1981, the Organisation has demanded the discontinuance of the guarantee fund on the following grounds:

- (i) The spirit of the guarantee fund is not in vogue as the employees who are innocent and honest are seldom given cover against fraud and theft out of such funds.
- (ii) The Bank does not contribute to this fund.
- (iii) When incidents of theft, fraud etc. take place, the Bank shirks its responsibility of going to the root of the incident and penalises the honest and innocent employees, as there is cover for the Bank by this fund.

The Organisation has demanded that the Bank's plea for continuance of this fund should be rejected and the same may be replaced by the compulsory insurance of cash department employees as demanded by them under Item No. 21 of the reference.

32.8 The Co-ordination Committee, in its statement of claims dated 11th January, 1980, has stated that this fund is totally unnecessary and should be discontinued. They have further demanded that the Cash Security deposit of Rs. 500 taken by the Bank at the time of recruitment of Coin/Note Examined should be done away with. The Cash Department Employees' Union and Karmachari Federation, in their joint statement of claims dated 14th January 1980 have demanded that the scheme should be discontinued forthwith, and the sum accrued should be refunded with compound interest; reason being that the Bank has abolished the contract system and has introduced the combined seniority scheme. Ex. Servicemen and SC/ST have not filed any statement of Claims in this behalf.

32.9 It is the submission of the Bank that this demand cannot be entertained by the Tribunal on the following grounds:

- (i) The Guarantee Fund is a statutory fund constituted under the Regulations framed by the Central Board of the Bank under Section 58 of the Reserve Bank of India Act, 1934. Therefore any direction given by the Tribunal to scrap the fund would involve the repealing of the RBI Guarantee Fund Regulations which cannot be done except with the previous sanction of the Central Government. In this, the Bank has relied on the directions given by the Desai Award in respect of the Bank's Provident Fund Regulations which are also statutory Regulations made under Section 58 of the RBI Act, 1934. Before the Desai Tribunal, it was the submission of the Bank that the Bank's Provident Fund Regulation being statutory, the Industrial Tribunal had no jurisdiction to make any change in them as that would involve giving directions to the Bank to make changes in the Regulations framed by the Central Board of the Bank with the previous sanction of the Central Government. In paragraph 7.18 of the Award, the Desai Tribunal accepted the submissions made by the Bank and refrained from giving any directions whatsoever to the Bank regarding the Provident Fund. It is therefore, the submission of the Bank that the demand before the Tribunal should be rejected as it is not competent for the tribunal to give any directions to the Bank in regard to the guarantee fund.

Even on merit, it is the submission of the Bank that this demand requires to be rejected. The Bank had relied upon paragraphs 426 to 436 of the Shastri Award where also a similar demand for winding up of the guarantee fund by the then Imperial Bank of India, Punjab National Bank Ltd. and the Overseas Bank Ltd. was made. The main ground on which the guarantee fund was attacked was that it realised a large majority of honest and innocent employees for the dishonesty of a few. The demand was rejected by the Shastri Tribunal in paragraph 428 of the Award. Further, in paragraph 430 of the Award, the Shastri Tribunal has observed that the Guarantee Fund was not only not objectionable but also desirable. It was pointed out by the Tribunal that the contribution made to the fund was much less than that of the insurance company would have charged by way of premium and the amounts themselves were not very large but really very low. In paragraph 433 of the Award the Shastri Tribunal made a reference to the Guarantee Fund constituted by the Reserve Bank wherein the Tribunal had pointed out that the 90 per cent of the contribution was returned by way of bonus on retirement or on termination of service as the case may be. In paragraph 434, the Tribunal dealt with the Guarantee Fund of the Imperial Bank of India which was more or less on the same pattern of the Guarantee Fund of Reserve Bank of India. It is the submission of the Bank that as the demand for abolition of guarantee had been considered by National Tribunal on merits, the demand made by the Organisation for winding up of the guarantee fund should be rejected.

32.10 At page 22 of the Statement of claims, dated 20th July 1981, the Bank has referred to the various provisions of the Bank's Guarantee Fund Regulations and has stated that the amount standing to the credit of an employee becomes payable on his death or on his transfer to an appointment for which security is not required. The bonus is declared in respect of each employee and by and large the amount of bonus is equal to the amount of contribution made

by them. It is the submission of the Bank that having regard to the provisions of the Bank's Guarantee Fund Regulations which satisfy both the tests laid down in paragraph 428 of the Shastri Tribunal, there are good grounds for retention of the Guarantee Fund. The Bank has given the following 5 advantages which accrue both to the Bank and employees working in the Cash Department.

- (i) The staff handling cash are able to provide security by paying a small premium.
- (ii) The staff can reasonably expect to receive by way of bonus, more than the contribution paid by them after they cease to subscribe to the fund.
- (iii) In case of any other fidelity insurance policy, the premium once paid is never refunded. Further the procedure for settlement of claims by insurance companies is very cumbersome and even if a claim is settled, the company tries to recover it from the employee concerned.
- (iv) If a claim is admitted by an insurance company in respect of an employee, the company may not insure him again or it will be only at a very high premium.
- (v) It provides security to the Bank.

32.11 On Compulsory Insurance for Cash Department employees, the Association and the Organisation, the major contesting parties are speaking in one voice to introduce an insurance cover for employees working in the Cash Department. As regards Guarantee Fund in respect of employees in the Cash Department, the Association has suggested to increase its coverage whereas the Organisation and other Unions have suggested its discontinuance. As the matter stands at present, the Bank is covered from the fund for the loss occasioned. The demand of the Organisation to discontinue the Fund is linked with the suggestion to introduce an insurance cover for the employees. The reasoning put forward on behalf of the Organisation appears to be that since the Bank can look upon the Guarantee fund for covering of the loss due to the negligence of the employees, there is an increasing tendency to throw the blame on the employees for any irregularities. The Bank is also indolent in not taking prompt actions against loss by theft, robbery the incidence of which is on the increase, or crimes committed by practising frauds. It is thus said that the employee comparatively helpless against the attitude adopted by the Bank but immunity can be offered to him if loss occasioned can be covered directly in relation to the employees. I am, however, unable to appreciate the whole logic in the suggestion except possibly the onslaught that the Bank is not really interested in sifting the incidents to find out where exactly the employee is in the wrong and where the loss is occasioned due to some other extraneous factors, such as conspiracy or theft or robbery. Now, what is suggested by both the Association and the Organisation is that each employee should be insured for the loss. In its very nature, this will encourage slackness, if not, outright dishonesty. Once the person feels that the loss committed by him would automatically get recovered from an insurance scheme, he would not be as particular as he is expected to be while doing his work in the Cash Department. For this single reason, the suggestion for compulsory insurance to employees deserves to be rejected.

32.12 On behalf of the Bank the charge of non-remaining diligent is denied. According to the Bank, it is only when an employee is found to be negligent that he is proceeded against. It is subsidiary that the loss is recouped from the Fund. In view of this statement of the Bank nothing further remains for exploration. Assuming however that the allegations of the employees that the Bank is really not pursuing matters when loss is occasioned not because of the negligence of the employees but because of some other factors, I am not prepared to hold that the employee is without remedy or without help. The employee proceeded against in departmental enquiry for negligence can certainly put forward material showing that he was not negligent a bit and that he should be exonerated. If correct material is put forward, there is no reason to suppose that the facts would be twisted. Apparently, the incident or the happening would be in the Cash Department and all his co-workers should be knowing about the happening. The demand for compulsory insurance, is therefore, rejected.

32.13 As regards discontinuance of Guarantee Fund, the Organisation as well as the Co-ordination Committee did speak of its discontinuance on the ground which are just the same discussed above. Actually speaking, a co-operative venture like the Guarantee Fund should work in favour of the employees doing duty in the Cash Department. In principle also, contributing for such cumulative coverage to a risk is well worth the effort. The alleged reason for its discontinuance ought not to exist and would not exist if the steps, as indicated at the time of discussing the insurance cover for employees are followed. In support of the Guarantee Fund Scheme, the Shastri Award has expressed as follows:

"428. We do not see any objection on principle to a scheme of co-operative guarantee fund to which the workmen should be made to contribute. This kind of mutual assurance cannot be rejected off-hand as improper or inherently unjust. True, employees who may not be participants in any fraud are asked to contribute to such a fund but in the interests of the institution as a whole and as a general method of constituting a guarantee fund there is no good reason why all employees of the Bank should not be called upon to make a contribution. In our opinion the rules of the said fund should, however, fix a really small contribution and must also provide for a return to the honest workmen of a large portion of the amounts contributed by them when they retire. Any scheme with these two essential provisions cannot fairly be objected to."

The reasoning still holds good. Apart from that, discontinuance of Guarantee Fund would not be achieved by giving directions about it. The Fund is formed in exercise of powers contained in Section 58 of the Reserve Bank of India Act, 1934, with the approval of the Central Government. The Fund is thus a statutory Fund and it cannot be done away with so casually.

32.14 On the contrary, the suggestion of the Association that the coverage limit under the Fund should be increased is worth noting. There appear to be different limits for coverage from person to person, depending upon whether he is a Coin/Note Examiner Gr. II or whether he is a Coin/Note Examiner Gr. I or Teller or whether he is an Assistant Treasurer or Deputy Treasurer. The limits appear to have been fixed at a time when the rupee value was high and the total number of notes in circulation was less. At present the latter has increased manifold and the purchasing power of rupee has decreased. It will be, therefore, proper to increase the limits. Since no concrete suggestions were put before me at the time of argument, I find myself unable to give any directions regarding the limits. But I do feel that the Reserve Bank will take appropriate steps to increase the coverage to bring it on par with the present times.

CHAPTER XXXIII

Item No. 22.—Security Measures in respect of employees in the Cash Department.

33.1 In its statement of claims dated 22nd January 1980 the Association has stated that the security arrangements or security measures in the Cash Department are extremely inadequate and as such many irregularities occur in the Department for which the employees are made to pay the penalty. In the settlement dated 28th September 1979, entered into by the Bank and the Association the Bank had agreed to undertake the detailed study of the entire position of the currency management (Item 6.9 of para IX Section B Yellow Book). In its statement of claims dated 20th July 1981, the Association has contested the submission of the Bank that this item is not a matter of industrial dispute. It has denied that the lack of adequate security measures in Cash Department cannot be a subject matter of industrial dispute. It is the submission of the Association that as the employees in the Cash Department have to handle large number of currency notes and coins, they always remain prone to grave risk of monetary loss and disciplinary action. It is the submission of the Association that this Tribunal has the necessary jurisdiction to adjudicate this item of reference and pass proper direction. In the opinion of the Association, the remedy lies in making the Note Examination Section smaller. Instead of the present position of each section being of 40 Coin Note Examiners, such section should confine to 20 to 30 examiners. The implementation of this demand will

facilitate effective supervision by the employees over note balances thus reducing the occurrence of mishaps in a Cash Department. It is alleged that due to lack of proper security arrangements in the Cash Department many employees have been made to suffer and has denied that there has been any improvement in the security arrangement.

33.2 In their statement of claims dated 21st November 1979, the Organisation has demanded for total re-organisation of the conditions of work and procedure in the cash department to suit individual responsibility system. In their statement of claims dated 10th August 1981, the Organisation contests the Bank's contention that the security arrangements are exclusively the managerial functions. In its opinion, the interests of labour, industry and nation are not conflicting but co-ordinating. If one prospers the other must prosper in harmony with it. As such there is nothing which can be called exclusively managerial function. The Organisation has reiterated its demand regarding the re-organisation in the Note Examination Section of the Cash Department. It has also demanded that each Coin/Note Examiner and Group Supervisor should be provided with independent table, drawer with lock and key for the examination tables and all the tellers must be provided with exclusive cages.

33.3 Karmachari Federation and Cash Department Union, in their statement of claims dated 14th January 1980 have demanded exclusive cages/drawers to each cashier and total re-organisation of conditions of working and procedure in the Cash Department. Their demand is identical to the one made by the Organisation both in contents and in language. The Co-ordination Committee, in its statement of claims dated 11th January 1980 has demanded the reduction in the number of employees working in each Note Examination Section. According to them each Note Examination Section should consist, among others, of 20 note examiners of grade II.

33.4 The Bank's submission in this regard is that what security arrangements should be adopted in the Cash Department is purely the management's function and no directions can be given in this respect by any Industrial Tribunal. The management function is well accepted. The Bank has relied upon a number of judgments to press their point of view. It is the submission of the Bank that in view of the decisions of the Supreme Court and the various High Courts, no direction can be given to the Bank in this regard.

33.5 Subject to what is stated above, it is the contention of the Bank that the employees working on the receipt and payment counters in the Cash Department, are provided with separate drawers with locking arrangement. Subject to availability of space in the premises, the Bank has also provided separate cages/enclosures with locking arrangement from inside. The Bank has been reviewing the security arrangements at its offices on a continuous basis and has been taking proper action to plug the loop-holes, if any. Under the existing arrangements, the security area i.e. the Cash Department and the vaults are cordoned off and only authorised persons having official business within the area have access to it. Such authorised persons are issued identity cards or entry permits which are required to be produced whenever demanded by Durwan or some other officer-in-charge of security arrangement. Work procedure in Cash Department is reviewed from time to time on the basis of the actual experience.

33.6 The suggestions made by the contesting unions on this topic are to be appreciated keeping in view the practical working of the Cash Department. As I can gather now, the notes of various denominations in bundles are distributed to each unit. Each unit consists of 10 Coin/Note Examiners and one Group Supervisor who is responsible to the Assistant Treasurer. The Assistant Treasurer usually caters to the needs of 4 such groups. There is also Punching Supervisor for all. Now the working shows that the person counting the notes spreads them in front of him, sorts them out, and bundles them into categories expected all within the close supervision of the Group Supervisor. So far as the public counter is concerned, usually a counter is managed by a Teller, assisted almost always by a Coin Note Examiner Gr. I. What is suggested is that from security point of view, cages should be provided to each unit. Cash Counters should be at lower level than the lower edge at which the customer transacts, the persons counting notes should each have a

rate table with drawer and key and that the present system of a group consisting of 10 Coin/Note Examiners Grade II from the security point of view be reduced to 5. In fact, this reduction of group from 10 to 5 is also pressed in a different context i.e. increase in the number of Group Supervisors which is canvassed under Promotion item No. 12. That part will be looked into while considering that item. The part to be looked under this item is the security arrangement.

33.7 Apart from the merits of the stand, the Bank has taken the theoretical position that it is they who are to manage their business and it is they who can decide what is best. In particular, the observations relied upon in *Parry & Co. vs. P. C. Pal*, 1970 2 LLJ, 429 at para 14 should be noted. They are as follows:

"14. It is well established that it is within the managerial discretion of an employer to organise and arrange his business in the manner he considers best. So long as that is done bona fide, it is not competent to a tribunal to question its propriety. If a scheme for such reorganisation results in surplusage of employees no employer is expected to carry the burden of such economic dead-weight and retrenchment has to be accepted as inevitable, however unfortunate it is."

I need not go into other judgements on the point cited by the Bank. The demands made by the Unions do look like suggesting reorganisation or how to conduct the business. To that extent it will be a managerial function. But there is also the aspect of security. By and large, the existing arrangements are not questioned. That the subject is overlapping can be understood from the observations made in 1965 2LLJ 687, in *Bombay Port & Dock Employees Union vs. Meher*. At page 690, the following observations have been made:

"It is true, very often, it may be that the demand might appear to be a demand for reorganisation, but in effect and substance it may be so connected with the conditions of service of the workmen that it may cease to be within the ambit of the managerial concern."

The substance of the matter is that so far as the present item is concerned, the suggestions are to be looked from the point of view of security and, certainly, the employees would be within their rights to make suggestions so that if found suitable, directions can be given to the Bank to adopt the same. The suggestion that the level at which the employee at the public counters deals and transacts in the currency notes and other papers, the counter should be at a lower level than the customers level at which the challans or notes are handed over, is eminently reasonable. It would discourage any attempt to dabbling by any customer by simply pushing forward his hand. He will have to make efforts, perhaps unsuccessfully, in lowering his hand right upto the level where the person inside works, without getting detected in the nefarious activity. It may be that in certain offices this different in level already exists. I would only wish that if in some offices this does not exist, it is high time steps should be taken to introduce it. I have also approved the suggestion under the heading accordingly.

33.8 Similar appears to be the case relating to introducing a cage for each unit with inside locking system. It is useful from the point of view of management as well as the employees. The employee would not be able to complain even falsely that somebody else interfered and it would be possible for the management also to pin point the place of mischief, if any.

33.9 Coming to the case where the counting of notes is done under the supervision of the Group Supervisor, prima facie, one table for each person counting notes should be a reasonable suggestion. It would be the desire of every Coin/Note Examiner that his adjoining employee has no chance to rob him or to mix, even inadvertently, the notes handled by him. But at the same time we must also keep in mind the point of view of supervision. The Group Supervisor has to have a look at each Coin/Note Examiner, in action. For deciphering the space allotted to each Coin/Note Examiner, perhaps, small tables put side by side even without a gap could be suitable or with some partition of a very low height of 5-6 inches between 2 adjoining tables. Since the partition is not high, the Supervisor from his table would be able to

control the examining process. If such a partition exist there should be no scope for the two Coin/Note Examiners mixing their notes. In fact, this would be the solution where the space is not much. Otherwise, looking to the practical aspect of examining the notes even if there is one very big table, if the Coin/Note Examiners sit keeping a very reasonable distance between the two, the complain made or the mischief to be averted should have no scope. Therefore, all these observations have been made with a view to emphasizing the need to give an assurance to each Coin/Note Examiner of his remaining free from any confusion or mix up. Keeping in mind the aspect of managerial control being supreme and the overlapping position of giving security to the employees, I do not think any specific directions are called for.

33.10 The other suggestion is regarding giving a separate locker and key to each Coin/Note Examiner. I conceive more complications than it turning into a facility. Without elaborating, I can say that if notes can be kept in the drawer of individual Coin/Note Examiners that can result in situations providing for an opportunity to commit mischief. I, therefore, do not accept that suggestion.

33.11 What remains now is the suggestion for making the group smaller, in fact, almost half and that too from security point of view, I would be dealing with it under the promotional aspect. So far as the security point of view is concerned, looking to the observations made, it does not survive.

CHAPTER XXXIV

Item No. 23.—Housing Loans, Festival advances etc.

Item No. 26.—Rate of interest on Housing Loans and other advances granted to the employees.

34.1 Under item No. 23 the subject considered was housing loan along with festival advance and marriage advance. From para 22.4 of my Award Part I, it can be gathered that the parties had suggestions regarding the procedure for granting loan, the rate of interest, the repayment schedule and the maximum and minimum amount of housing loan. As however, there was independent item No. 26 relating to the rate of interest on housing loan and other advances and as the settlement had referred only to the maximum limit, in the Award Part I the maximum limit of advance was confirmed, with the observations that the rate of interest together with the connected question of the repayment of loan and the allied matters, i.e., the procedure for grant could be considered either under item No. 26 or by way of residuary part of item No. 23. I do not think the help of item No. 34 is necessary. In this connection, if item No. 23 had remained as an untouched item, there would have been enough opportunity to the Tribunal to consider all points as in the case of item No. 26. The part which was agreed upon and which has been found to be beneficial to all the employees was adopted as the part of the findings of the Tribunal leaving aside the other parts to be considered at this stage.

34.2 In this connection the Bank has stated that the grant of loan for housing and other purposes is purely a welfare measure and not a condition of service. No Tribunal has ever directed the Bank to give these loans to Bank's workmen. In *Patna Electric Supply Company Ltd. v/s. Patna Electric Workers' Union* reported in (1959) 2 ILJ 366, it was held by the Supreme Court that the provision of housing facility is a responsibility of the State and not of the employer. It was further observed in that case that the claim of wages properly fixed necessarily take into account house rent amongst other relevant factors and under an appropriate scheme of dearness allowance, adjustment can be made when necessary to take into account an appreciable rise in the house rent which industrial labour may have to pay. That is why usually Tribunals do not entertain employee's claim for housing and do not even allow the separate demand for housing as such.

34.3 At present the Bank grants the following types of advances to its workmen employees viz.

- (i) Housing Loan.—Housing loan is granted upto 90 per cent of the cost of land or building or a flat or apartment or 60 months' pay or Rs. 72,000 whichever is lower. The rate of interest charged on this loan is 3 per cent (simple), which is usually

spread over a period of 20 years depending on the remaining length of service of the employee.

- (ii) Motor cycle/scooter advance.—This advance is granted upto 16 months' pay or the anticipated value of the vehicle or Rs. 6000 whichever is lower and carries interest at the rate of 2-1/2 per cent per annum.
- (iii) Bicycle advance is restricted to Rs. 600 or the actual cost of the bicycle whichever is lower and this advance carries 2-1/2 per cent interest per annum.
- (iv) Fan advance for purchase of 2 fans, advance is restricted to Rs. 500 or the actual price of the fans whichever is less and carries interest at the rate of 2-1/2 per cent per annum.
- (v) Flood relief advance is restricted to 2 months' pay or Rs. 750 whichever is lower. The employee is also entitled to avail festival advance of Rs. 600 once in every calendar year. Both these advances are free of interest.

It is the submission of the Bank that as these advances are given ex-gratia and not as part of the service conditions of the workmen employees, it is open to the Bank to charge such rate of interest as it may decide. As the workmen employees of the Bank are definitely better paid, the Bank would be justified in charging the general rate of interest prevailing in the country. Charging lower rate of interest amounts to an additional perquisite in the hands of the employees to the extent of difference in the rate of interest actually charged and the prevailing rate of interest.

34.4 It is the submission of the Bank that the rate of interest on housing loan and other advances (other than festival advance and flood relief allowance) should be at least 6 per cent per annum for the reasons that the employees of the Bank being fairly well paid, they cannot demand that Bank should charge only nominal rate of interest on these loans, while the members of the general public have to pay interest at the commercial rate. The Bank rate at present is 10 per cent while the minimum lending rate of commercial bank on consumption loan is 18-1/2 per cent. Therefore, the rate of interest to be charged by the Bank cannot be out of tune with these rates of interest. Bank however, does not propose to charge any interest on festival advance and flood relief advance as they stand on different footings and the maximum amount of these advances is small. The Bank therefore submits that this Tribunal may direct that the rate of interest on all advances except the two mentioned above shall be 6 per cent per annum simple interest.

34.5 On behalf of the Association it is said that the demand of the Bank for raising the rate of interest on housing loan and other allowances is unwarranted, illogical and prompted by ill motives to deprive the employee from enjoying the benefits which they have been enjoying for past several decades. The proposal will also erode the wages payable to the employees as the increased rate of interest will reduce their pay packet. Almost all the employees have to take recourse for this loan and advances because their remuneration do not leave any margin to provide funds for the above items which are the necessities of the present urban life. The Association has controverted the Bank's statement that the employees in the Bank are better paid. It is the submission of the Association that the Bank employees are not getting even the salary as per the need based norms set up by the 15th Labour Conference in 1957 and are definitely within the weaker sector of the employees. It is the submission of the Association that the Bank by the supplemental agreement dated 21st November 1979 agreed for grant of housing loan on the existing basis, which naturally included rate of interest also on the existing basis. Therefore the demand of the Bank for increased rate of interest is naturally an after thought. Comparison of the Bank employees with Government employees irrelevant. Further, the comparison with the Bank rate, for loan with commercial rate of interest is also irrelevant. Because the rate of interest charged by the Bank to its own employees is just like grant of free passes by the Railways or the air-lines to its employees where nothing is charged by these concerns from their employees in respect of these facilities. In case of the Bank, except for the festival and flood relief advances, its loans and advances to the employees are not free of interest and it is the submission

of the Association that as no case has been made out by the Bank for increase in the rate of interest, the demand should be rejected.

34.6 So far as the Organisation is concerned, they say that as the Bank has not raised the rate of interest on housing loan and other advances in respect of officers, the Banks demand before this Tribunal for enhancement of rate of interest for raising rate of interest only for Class III employees is anti-labour action. It is the submission of the Organisation that instead of raising the rate of interest there is a strong case for reducing the same. It is the established practice that the products of any industry are made available to the workers of that industry at concessional rates, and sometimes free of charge. Railways and State Transport Corporations give free journey passes to its workmen. Similarly in Electricity boards, consumption of electricity by their employees upto a particular limit is allowed free of charge and afterwards only at nominal rates. The Bank being a financial institution, it is the privilege of the Bank employees to receive loans and advances at nominal rate of interest. It is therefore the submission of the Organisation that the Bank has not made out any case for increasing the rate of interest and the demand made by the Bank should be rejected.

34.7 On behalf of the Ex-servicemen demand is made that they should be made eligible for housing loan on confirmation in the Bank's service. This will enable them to have longer repayment schedule and lessen the burden of the heavy instalments.

34.8 The SC/ST Federation in their statement of claims have demanded that the loans and advances given to the employees should be interest free.

34.9 On behalf of the Cash Department and Karmachari Federation a statement of claims is filed on 10th August 1980 which characterises the demand of the Bank for rise in the rate of interest as unreasonable, irrational and unjustified. According to them, the concession be viewed in totality and no superficial comparison be made with Central Government employees. Like the SC/ST Federation, the Co-ordination Committee has also said that all loan and advances granted to the employees should be free of interest.

34.10 Now, the major discussion centred around the minimum limit. It was argued on behalf of the contesting unions that the land rates have increased disproportionately and the flats are also not available at the value which was contemplated when the Bank's Housing Loans Rules were framed and as such it is absolutely necessary to raise the minimum limit if the housing Rules are intended to be in any way serviceable to the employees. There is much substance in this contention. Because of the increase in prices, even for a modest flat or house, the amount required would be very high. If, therefore, the employees are desirous of getting more as the minimum limit of housing loan advance, the aspirations are legitimate. The relevant consideration can only be about the repaying capacity. In this connection, it has to be remembered that the pay-scales have increased. D.A. is paid proportionate to the rise in prices and therefore, the exercise would be, whether the person, qualifying a new for the housing loan advance viz. an employee who has put in 5 years of service, would have to make by way of repayment something which is within his means. Almost every union was suggesting the minimum limit of Rs. 50,000. Looking to the market trend around, their demand cannot be called unreasonable. It is true that with the maximum limit of loan at Rs. 72,000, the difference between the minimum and the maximum does not bear good comparison. However, repayment of Rs. 50,000, as is shown to me by making calculations, casts a burden of slightly over Rs. 200 in the initial stages on the employee and, therefore, his capacity to repay cannot very much be doubted. Since the salary increased by absorption of 90 per cent of D.A., a useful criterion could be to raise the original minimum of Rs. 25,000 by 90 per cent. That is to say the limit should be Rs. 47,500. To round it off and to come nearer to the demand, I am fixing the minimum limit at Rs. 48,000.

34.11 Connected with this would be the subject of rate of interest on loans. Item 26 covers not only the rate of interest on housing loans but also on other advances like scooter advance, vehicle advance, and fan advance. The existing rates of interests are 3 per cent for housing loan, and 2-1/2 per cent for other advances. Flood relief advance is

without any interest and it being so, can easily be understood. However, it is now the demand of the Bank that rates of interest on all the advances should be increased. According to the Bank, the commercial market has become very tight and if employees were to seek advances elsewhere, they would have to pay a very high rate of interest, and as such they say that 6 per cent p.a. simple interest on all advances would be reasonable. When the Bank is making a case for enhanced rate of interest, on behalf of the Organisation, it was argued that an advance, particularly, housing loan advance, should be made interest free. Mr. Devidas Pai, for the Organisation, went on saying that in Railways, the railway employees get free passes for travelling on trains and other manufacturers and companies offer their goods to the employees at concessional rates, almost at the production cost. Hence, the Bank employee should be entitled to interest free loan. The analogy does not sound very convincing. The manufacturing units do not give everything free. The Railways have an established practice and they have to carry only a few more persons in a stated class, where already accommodation exists and the rolling stock moves on. Here, when the Bank gives advances, it is drawn from the financial resources of the Bank. It cannot be denied that commercial market is getting tight and I cannot see any convincing reason as to why the advances should continue at the very low rate of interest of 3 per cent and 2-1/2 per cent. Getting the advance itself is an amenity. Considering the status of the Bank employees in a progressive organisation I do not think that the loans should be interest free. When we have doubled the limit of minimum advance, there should be no justification for offering low interest.

34.12 It does however, look proper that the employees could expect some concession even in the matter of payment of interest. Mr. Devidas Pai invited my attention to the rates of interest at which advances are given by other banks. The exhibit filed shows rate of 2 per cent in Mercantile Bank, Chartered Bank and the Grindlays Bank. There are all foreign banks whose management should provide no comparison for the Reserve Bank of India. The foreign banks would be providing many incentives to their employees for some different reasons. I, however, find that in the Bank of Baroda, advance is given at 3 per cent and the State Bank of India gives advance at 4 per cent. It is not known whether these rates will be under revision. But weighing all the aspects, I have a feeling that the rate should not be as low as quoted therein. It appears that initially when 3 per cent per annum was the rate prescribed for housing loan advances by the Reserve Bank, the Bank was interested in giving loan at almost half the rate prevalent in the market. In the circumstances, on that analogy a link should be established with the prevalent Bank rate notified under Section 49 of the Reserve Bank of India Act, 1934. Giving, therefore, a concession, I think the rate of interest on such advances should be half the rates so notified at any time. To facilitate accounting I direct that the rate prevalent on the opening day of the financial year would continue throughout the year although the same may during the course of the year gets enhanced or reduced.

34.13 What remains now for consideration is the claim of the SC/ST Federation that they be given housing loan advance interest free and the Ex-servicemen's demand that they should be made eligible for housing loan advance as soon as they are confirmed. As regards the claim of the SC/ST Federation, neither on merit, nor on jurisdictional point, it could be accepted. So far as the Ex-servicemen are concerned, the controversy raised could be whether that claim could be linked under item 23, or 26 or any other item. In my view, when the item of housing loan advance is to be considered by the Tribunal, it has to be looked into from all aspects concerning it. Incidental aspects will have also to be looked into. For purpose of maximum limit and minimum limit they will fall in line with the general conduct of employees. But as incidental matters are, any hardship or any special concession to ex-servicemen should fall for discussion under the residuary part. Even if it is not so, under item No. 34, it would arise. As such, I am looking into that demand.

34.14 Ex-servicemen who have joined the services at late age come across peculiar problems. Even at the time of joining service, the family is not likely to be as small as of a fresh recruit of 5 years standing. Their commitments and responsibilities will be larger in comparison to the persons

getting loans after 5 years of service. If in their previous services, they have not qualified for housing loan or when they have not utilised the privilege they should have a fair opportunity of getting housing loan advance as soon as possible. A situation would however arise that their remaining period of service would perhaps be very short and the repayment instalments would be very high and not within the capacity of the person availing of the loan who starts his career at the bottom of the scale. There may be however some cases where there could be harmonious combination depending mainly upon the service in balance. Therefore, so far as their claim that as soon as they are confirmed they should qualify for housing loan advance, I give directions to the Bank to consider each such case on merits, and as far as possible to accommodate such employees by giving the advance.

CHAPTER XXXV

Item No. 27.—Grievance Procedure.

Item No. 28.—Internal machinery for resolving industrial disputes.

35.1 Since these two items are co-related, in their respective statement of claims the Bank, Association and Organisation have discussed these items together. Paragraph 6 of the Supplemental Agreement dated 21st November, 1979 referred to the draft of the Grievance procedure indicated by the Bank which the Association had agreed to consider. As there was no final settlement on this point between the parties, the Tribunal by paragraph 23.1 of the Award dated 17th June 1981 directed this item to remain undisposed of.

35.2 According to the draft given by the Bank as annexures I and II to the statement dated 20th July, 1981, as far as the grievance procedure (annexure II) is concerned, it indicates the nature of grievances that could be covered by the procedure. Work assignment and disciplinary action are excluded from the grievances procedure machinery unless such action is disputed on the ground of victimisation or patent perversity. It is, however, provided that the employee should first comply with the order. It is made clear that the termination of service and dismissal will be outside the scope of the grievance procedure. Then follow the provisions for disposal of grievances at the immediate higher level, with a provision for appeal against such order, and thereafter to approach the Grievance Committee. The draft given of Constitution of Grievance Committee viz. two representatives of the Bank nominated by the Manager, three representatives of the staff nominated by the recognised Union with the Manager as the Chairman of the Committee. Further provision is for the recognised Union to represent the employee and the clarification is that this procedure is not in supersession of the existing rights. Then follow the provisions for Central Consultative Committee which will act like an advisory body.

35.3 Annexure I is the draft on 'Joint Consultation Scheme'. The Committee comprises of the representation of the management and the representatives of the staff at two levels, at the Central Office level and at the Local Offices level. The recognised Union has the privilege to nominate representatives. Matters which are jointly settled by negotiations between the management and staff, such as scales of pay and allowances, retirement benefits, leave etc. should be outside the scope of the Consultative Committee. Then there is the provision for holding meeting of the Consultative Committee, its minutes and the list of matters which could be looked into by the Central Consultative Committee.

35.4 In the background of these drafts, the statement given by the Bank will have to be appreciated. In their statement the Bank has made out following points:

Presently there is no codified procedure for dealing with the grievances of the individual employee though for collective disputes, discussions are held with the recognised unions and settlement arrived at. It is the submission of the Bank that the Association cannot take up the grievances of an individual employee. Similar demand was made before the Desai Tribunal and was rejected by it. On an appeal, the Supreme Court in the case reported in AIR (1966) S.C. 305; (1965) 2 LLJ 175 held that if the Unions were to intervene in every industrial dispute between an individual workman and the establishment, the internal administration would become impossible. Bank's Regulations do not provide for the

redressal of the grievances which an individual employee may have. Under the Bank's Regulation 48, an employee has right to appeal against the order which adversely or injuriously affects his interest. Therefore, the individual grievances of the employee are dealt with in the normal manner and are not covered by the Bank's (Staff) Regulations.

35.5 Paragraph 5.17 of the Shastri Award provides that an employee desirous of redress shall either himself or through a representative of recognised union submit the complaint to the Manager or an officer appointed for this purpose. The Bank has referred to paragraph 24.16 to 24.31 of the report of the National Commission of Labour (1969), also known as Gajendragadkar Commission Report and in particular to paragraphs 24.29 and paragraph 24.31 which speak about the necessity and the basic ingredients of the grievance procedure.

35.6 In commercial banks, apart from paragraph 5.17 of the Shastri Award, periodical meetings with the representatives of the workmen at Central Office/Zonal and Regional Offices are held where matters of mutual interest are discussed and the decisions are taken for the redressal of the grievances which are brought before such joint meetings. It is understood that in S.B.I., Syndicate Bank and United Bank of India, there is formal grievance procedure. Under the Code of Discipline in the Industry, as accepted by the Bank, the Bank has undertaken to codify procedure for dealing with day-to-day grievances of the employees. This code of discipline has not been accepted by the Association. In July 1969, the Bank drew up grievance procedure as also a scheme for setting up a joint consultative machinery. The Association did not move further in the matter.

35.7 In Bank's view the grievance procedure should contain the following guiding principles:

1. The grievance procedure should provide that an order which is a subject matter of grievance must first be complied with and taken up as grievance later.
2. When a workman submits a grievance for redressal under the above procedure, recourse will not be had to the procedure for settlement of industrial disputes etc until all the steps under the procedure are exhausted.
3. Only individual grievances would be dealt with under this procedure. Individual grievances would mean any complaint of a workman relating to unfair treatment by a superior or a complaint affecting an individual workman regarding wage payments, overtime payments, leave allowance, working conditions and rights and privileges of the workman under the prescribed terms and conditions of service.
4. The grievances will not include any complaint regarding disciplinary action initiated in accordance with procedure set out either in the Ayer Award or Regulation 47 of the RBI (Staff) Regulations, 1948.
5. All representations and replies to workmen shall be in writing. Workmen or the unions will not resort to any agitation in respect of any matter referred for redressal under this procedure.
6. No travelling or halting on any other allowances or any special leave would be granted to the workman or his representative for representing his grievance.

35.8 Following should be deemed to be grievances covered by the Grievance procedure:

- (a) Complaint relating to unfair treatment on the part of any superior official;
- (b) Complaints affecting one or more individual workers regarding wage payments, overtime, leave, work assignment, working conditions and rights and privileges of employees under the prescribed terms and conditions of service.

Explanation.—Work assignment under the procedure should mean the assignment of duties to various categories of staff

and shall not include allocation of duties of individual employees.

35.9 The Association has given a fairly long statement which can be summarised as follows:

The Association submits that the All India Reserve Bank Employees' Association is the representative body recognised by the Reserve Bank since its inception in 1935 for settling industrial disputes relating to employees in Class II and III staff of the Bank. For settling the disputes there has been a system in vogue of periodical Conciliation meetings with the representatives of the Management of the Bank and the Association, both at the Central level as also at the local levels. All that is required to make the existing system more effective is to increase the frequency of the meetings and an intent on the part of the management to resolve the disputes expeditiously. What, however, seems to be the management's motive, is to by-pass the Conciliation meetings with the excuse that such meetings are not entitled to discuss the individual grievances. The extent and nature of individual grievances are very wide and, as such, the institution of a grievance procedure machinery would be a handle in the hands of the management to deny the collective body its rightful role in ventilating the grievances of such so called individual employees. Such a machinery may also turn out to be a forum for other than the recognised Association, to have a back-door entry into the field of handling employees' grievances. The ill motive of the management is amply manifest when it seems to lay down that an employee must first carry out the order of his superior and only thereafter he can raise a grievance.

35.10 Looking to the envisaged composition of the Grievance Committee with the Manager as the Chairman, it may safely be assumed as to what the Committee will take about the very admissibility of the grievance and even if admitted what final verdict will emanate out of the Committee with the Manager as the Chairman. The time factor for the Grievance Committee to give the verdict has been laid down as 30 days after receipt (and admission) of the grievance. During this entire period the employee will have to carry out the order against which the employee is aggrieved. The motive of the Management becomes crystal clear when it is proposed that allocation of duties to an individual employee and cases of termination of service or dismissal or disciplinary action will not be subject matters for Grievance Committee. The suggested composition of the Consultative Committee, the items sought to be discussed in that Committee etc., confirm the impression that these committees are sought to be the forums to be utilised as adjuncts to the Bank's craze for sophisticated mechanisation, job reorganisation and increase in workload. In the matter of representation of employees, the management envisages eventual recognition of a Union at a local level different from that Union which is recognised at the Central level, thus overriding the present position that the local affiliated units of All India Reserve Bank Employees' Association, the centrally recognised Union, are automatically recognised at local levels also. In the composition of the Consultative Committee, the idea of a Chairman from the management's side gives the colour as if the Bank's management is to be the bigger partner; such ideas are repugnant to democratic principles. In page 9, the power of the Central Consultative Committee has been enunciated as only an advisory body and not an appellate body in so far as grievances of employees are concerned. All the above will lead to only one conclusion that be it Grievance Committee or be it Consultative Committee, the management's whole idea is to shelve the employees' grievances to any length of time but at the same time make the employees carry out the orders and simultaneously to ensure that the grievances do not burst into agitation; the mischief sought to be done through the Consultative Committees is to process through these forums the Bank's various moves of shrinkage of employment potential, workload increase etc. The Association has further submitted that the Bank should be directed to have the system of Conciliation meetings more frequently and with sincere intentions so that the grievances of employees can be resolved satisfactorily and quickly. The Association has stated that the scheme of Joint Consultative Committee that were started for Central Government employees has not worked well mostly because of the similar factors narrated above and there is every reason to believe that the same fate awaits the scheme proposed here also.

35.11 On the other hand the Organisation has welcomed the desire of the bank that the grievances of the employees be attended speedily though within the framework of rules and regulations in force and in consonance with ideas of justice and principles of sound administration. According to the Organisation, in principle, there can be no objection to such an approach. But if the Bank Management does not follow uniform practice and procedure in regard to the redressal of the grievances, the total fate and dedication to this approach will get shattered. According to the Organisation, the yardstick of justice of the Bank to the employees varies depending upon the factors like the identity of the union to which the employee belongs. Thus, according to the Organisation, a fair trial can be given in evolving a suitable grievance procedure to see that it will be more in consonance with the modern concept of the industrial relations. It has, however, criticised the Bank, for giving monopoly to a union, in the Grievance Committee as stated in paragraph 9(ii) of the Annexure II to the Bank's statement of claim, which has not accepted the code of discipline, on the plea that it has been recognised by the Bank. The Organisation has referred to paragraph 23.49 of the National Commission on Labour (1969) and has submitted that due weightage be given to it. It has also referred to items 1 and 3 in the paragraph 23.29 of the same Report wherein it was pointed out that the grievance procedure, whether formal or informal, statutory or voluntary, has to ensure that it gives a

- (1) sense of satisfaction to the individual worker.
- (2) reasonable exercise of the authority to the Manager and
- (3) Participation to union.

Therefore, it has criticised those provisions of paragraph 9(ii) and 10 in the Annexure II to the Bank's statement of claim, which according to it, do not provide any justice to the employees who do not belong to the recognised union or association. It has, therefore, suggested that provisions under paragraph 9.2 of the Annexure be replaced by the words "three representatives of the staff nominated by the Union espousing the grievances to which the aggrieved employee belongs" and paragraph 10 be deleted.

35.12 The Organisation has demanded that the complaints regarding disciplinary action should not be outside the purview of the grievance procedure as bulk of the grievances arise out of the colourable exercise of disciplinary powers. The Organisation has demanded, after referring to paragraph 24.26 of the National Commission on Labour (1969) that instead of waiting period of 7 days, a waiting period of 2 days is enough. Further at the appellate stage, the Organisation's suggestion is that the period of 3 days should be sufficient. Similarly, the Organisation has suggested that the grievance Committee should be able to give a decision within 7 days instead of 30 days as suggested by the Bank. In the opinion of the Organisation, the denial of payment of travelling and halting allowance and on duty facilities for representation to the aggrieved employee and union representatives would make the functions of Grievance Committee less successful. The denial of representation facilities would indirectly encourage resort to coercion from union functionaries of the recognised bodies and would just go against grievance procedure. The Organisation, therefore, has demanded that the grievance procedure on the lines proposed by the Bank be evolved subject to inclusion of the provisions hereinabove mentioned.

35.13 So far as the internal machinery for resolving the industrial disputes is concerned, the Organisation has once again stated that the present system of recognition, holding discussions and negotiations only with a section of employees' union is inadequate to resolve the industrial disputes and the problems of the employees. The entire scheme for resolving the industrial disputes is based on recognition. It is the say of the Organisation that there is no Union in the Bank which has been duly recognised either under the law or under the Code of discipline as recommended by the National Commission on Labour (1969). According to the Organisation, as the Bank is not following the norms laid down by the NCL, it will not be fair on the part of the Hon'ble Tribunal to pass the Award in terms of the Scheme proposed by the Bank. In addition to the above, the Organisation has objected to paragraphs 9 and 10 of Annexure I to the Bank's statement of claims which provide for keeping the minutes and discussion of the Committee as confidential. In the

opinion of the Organisation, there is no need to keep it confidential as the employee has every right to know the proceedings as the disputes concern them. It has further objected to paragraph 13 of Annexure I which gives discretionary powers to the Committee to include any dispute in the agenda as it takes away the rights of the employee to decide whether the dispute should be referred to the Joint Consultative Committee or not. The Organisation has requested that the Joint Consultative Committee consisting of the employees' representatives elected through secret ballot on the basis of the proportional representation of all the registered unions be approved.

35.14 On behalf of the Karmachari Federation what is stated on the subject is as follows:

The Federation is opposed to the constitution of Grievance Committee as proposed by the Bank. The composition of the Committee as proposed by the Bank will give a handle to the recognised Trade Unions to come with a heavy hand on persons belonging to other Unions. In place of dispensing justice such committees would become a forum for soliciting support for the so called recognised unions and suppression of innocent minorities by the brood majority. They have suggested that representatives from all shades of opinion irrespective of their trade union affiliations should be placed on a panel out of which the Grievance Committees should be formed according to need.

35.15 On behalf of the management, it has been argued that Grievance Procedure is one of the ways in which industrial disputes, in the making, could be solved or looked into, which will be ultimately conducive to maintaining industrial peace. It was also said that under Sastry Award such Grievance Procedure has been approved and it is in vogue in many commercial banks. The management has given not only the broad outlines of the Grievance Procedure, along with the statements, they have also annexed two drafts—Annexure No. 1 to the statement relating to Joint Consultative Council, a suggestion in respect of item No. 28 i.e. Internal Machinery to resolve Industrial Disputes and Annexure II, a draft of the Grievance Procedure. The Organisation as well as the Coordination Committee are in favour of introducing the Joint Consultative Councils as well as the Grievance Procedure although on their behalf it is said that the drafts should not be accepted in toto. The Association has, however, staunchly opposed these two measures. According to Mr Phadnis, no question of procedure falls for discussion before this Tribunal and, therefore, the Tribunal will not be within its jurisdiction to decide the Grievance Procedure or the Internal Machinery. They have denied the statement made on behalf of the Bank that, at present, there is no procedure to resolve individual complaints. They maintain their right as an Association to look into individual complaints also. It is further alleged that the real point of the Bank in introducing these measures is to smash the legitimate trade union activities and to relegate the recognised association into the background and to encourage other unions to come up. None of these objections however look to be valid. When the items speak of Grievance Procedure and Internal Machinery, we need not go by the word 'Procedure' or the word 'Machinery'. The substance of the matter is that there is a scheme to look into the grievances at initial stage even before they develop into an industrial dispute and no question of the Tribunal not having any jurisdiction, arises. That the unions would not be able to look into individual complaints can be gathered from the observations of the Supreme Court in 1965 II LLJ, 175, AIRBEA vs. Reserve Bank of India, which are as follows:

"The next demand made by both the association and the union was that they should be allowed to participate and represent workers in disputes between an individual workman and the Reserve Bank. The Tribunal did not accept this contention for the very good reason that if unions intervene in every industrial dispute between an individual workman and the establishment the internal administration would become impossible. In our judgement, this demand cannot be allowed."

Therefore, while looking at these two items, we should be concerned with finding out whether an individual having a grievance gets a fair opportunity to get it redressed without following any elaborate procedure and before taking recourse to collective bargaining machinery contemplated by the In-

dustrial Disputes Act. For this very reason what is being discussed would not be in substitution or in derogation of the provisions of the Industrial Disputes Act, nay, that cannot be because the Act would be supreme. The machinery is intended to supplement those provisions so that even before the grievance gets represented for being looked into under the provisions of the Industrial Disputes Act, provision is made to smoothen out the discontent and get grievances redressed at the initial stage.

35.16 The Bank has relied upon the Code of Discipline for Industry, an extract of it is given to me in a cyclostyled form. Item No. 2 reads as "To ensure better Discipline in Industry, Management and Unions", Sub-items (viii) and (ix) are as follows:—

(viii) That they will establish upon a mutually agreed basis, a Grievance Procedure which will ensure a speedy and full investigation leading to settlement;

(ix) That they will abide by various stages in the Grievance Procedure and take no arbitrary action which would by-pass this Procedure.

35.17 In this very context, Mr. Devidas Rai of the Organisation, which is supporting this measure, relied upon the observations in S. L. Agarwal's "Labour Relations Law in India", 1980 edition. What is stated at page 633 is as follows:—

"GRIEVANCE PROCEDURE

An important requirement of labour-management relations is the setting up of a mutually accepted grievance procedure by the management for settlement of day-to-day grievances, the accumulation of which is generally a source of industrial unrest. Complaints against one or more individual workers in respect of their wage payments, over-time, leave, transfer, promotion, seniority, work assignments, working conditions and interpretation of service agreements, dismissal and discharges constitute stages within a specified time. It is essential for sustaining absolute discipline, good labour management relations and for promoting a jointly acceptable policy at the plant level that there should be an effective grievance machinery. An aggrieved employee should first present his grievance verbally to a designated officer, who should give his reply within 48 hours. In case the worker is dissatisfied with the decision or fails to get an answer within the stipulated time he should, personally or accompanied by his departmental representatives, present his grievance to the head of the department. If the departmental head fails to give a decision within three days or if his decision is not satisfactory the aggrieved worker can seek relief through the Grievance Committee consisting of nominees of management and workers. This committee would communicate its recommendations to the manager within seven days of receiving the grievance. If the recommendation is not made within this time reasons for it have to be recorded and in case unanimous recommendations are not possible the relevant papers have to be placed before the manager for decision."

35.18 I am also unable to appreciate the fear expressed by Mr. Phadnis on behalf of the Association that the Association is sought to be relegated to the background. As a matter of fact, this should not be the only objection. It is true that in any industry, recognised union should have priority and recognised association should surely be the mouth-piece of the workers. It should however always be the workers' privilege to see that the recognised union works always for the betterment of the workmen and that the recognition does not degenerate into a monopoly and thereby an instrument of exploitation or harassment. The recognised union, if there are definite rules in that behalf, enjoys the confidence of the majority of the workers. In order that they continue to do what is expected of them, is to be constantly vigilant and should be able to produce results in giving it an edge over other competitive unions. It is for this reason that there should be a periodical assessment of the following claimed by the recognised union. In view of this no one should be heard to say that some other union is afforded a chance

to come by the back door. All doors are always front doors. As such existence of other unions in the field is not to be construed as detrimental to the interests of the workers, as a whole. A look at the drafts would show that preponderance is given to the recognised association at every stage. It is only at one stage when the individual grievance is sought to be aired by an employee not being a member of the recognised union, that the draft gives him an option to have another employee of his choice, to represent his grievance without going to the representative of the recognised union. It could be that the choice would fall upon a member of some other registered trade union but the scheme recognises him as an employee-representative of the choice of the complainant and not in the capacity of a member of any other union. Therefore, Mr. Phadnis should have no grievance of the type he has made.

35.19 In the statement of the Association reference is made to the system in vogue of periodical conciliation meetings with the representatives of the management. I understand that there is no such standing machinery. It could be that occasionally the representatives may have been called to deliberate some problem. But no system as such exists and no question of making that system effective arises. In fact, the system would be what is now contemplated by the drafts.

35.20 With these remarks, we now turn to Annexure I and II. Annexure I speaks of Joint Consultative Council. The Scheme envisages Central Consultative Committee and Local Consultative Committee. The composition of the committee shows 7 officers on the Central Consultative Committee and 4 officers on the Local Consultative Committee. The staff representatives are 6 in the Central Consultative Committee and 4 on the Local Consultative Committee. It is worth noticing that the staff representatives are to be nominated by the recognised union. The draft then provides for the nomination of officer-representatives, of meeting of the Consultative Committee, matters to be discussed, keeping minutes of the meeting and discussions of the meeting being confidential. Para 11 of the draft speaks of implementation of decisions at the level of the management and at the level of the participating associations. Thereafter is the proviso showing that on failure to reach an agreed conclusion, there should be recourse to further action. Then is the paragraph showing that the machinery of Joint Consultative Council should supplement and not replace the existing facilities. Paragraph 14 provides for alternations and modifications.

35.21 A look at the draft would show that by and large it is acceptable. However, I find that it should be modified in certain particulars. Now, according to paragraph 2, it is said that on the Central Consultative Committee there would be not more than 6 representatives from the staff. The wording is little confusing. When there are 7 representatives from the management, there should be 6 representatives from the staff and there should be no scope for argument that they can be less than 6. Consequently, the three words "not more than" preceding the word "six" would be deleted. Then we come to paragraph 7, i.e. matters to be discussed. Sub-para (a) directs that scales of pay and allowances, retirement compensation, etc. would be outside the scope of Consultative Committee. Sub-para (b) gives a list of matters to be discussed. I am not in favour of retaining item No. 1 which reads as follows:

"Grievance Procedure : Formulation and review."

I am of the feeling that this item could be understood laying down the authority in the Consultative Committee to change the formulation of the Grievance Procedure or even of making any major changes in the Grievance Procedure. If by the Award, a Grievance Procedure is approved, there should not be such easy right in the Consultative Committee to make changes which could be of far reaching magnitude. This item, therefore, is deleted.

35.22 As regards para 9—Minutes of the meeting—it was suggested by Mr. Dudhia for the Karmachari Federation that these should be displaced on the notice boards. There is obligation cast on the Bank to circulate the minutes and, therefore, question of publication need not be insisted on. In para 10, where it is said that the discussions would be confidential, it is said that they would not be published. That looks fair because the final results in the form of minutes will be published, but discussions need not be published. The objection of Mr. Dudhia on this ground, therefore, is not sustained.

35.23 As regards para 14, regarding alterations and modifications, the paragraph contemplates unilateral voluntary power in the Bank to alter or modify in any manner the scheme of Joint Consultative Council. This vests the Bank with too much power. The whole scheme could be modified in one second if the management so pleases. The best solution, therefore, would be to delete paragraph 14.

35.24 With these amendments and upgrading of items in para 7 after deletion of item No. 1, the Joint Consultative Council is approved and will form part of the award as Annexure 'B'.

35.25 As regards Grievance Procedure, Annexure II of the statement given by the Bank, what is envisaged in clause 1 is grievances to be covered by the procedure. Sub-clause (i) and (ii) of Clause 1 describe the field of operation of the clauses such as complaints relating to unfair treatment on the part of the superior officer, complaints affecting wage payments, overtime, leave, work assignment, working conditions and rights and privileges of employees. Clause 2(b) however takes care to exclude cases of disciplinary action and clause 2(a) defines work assignment to mean the assignment of duties to various categories of staff and not to individual allocation of duties to individual employees. It was said by the Organisation that even disciplinary action should be discussed by the Grievance Procedure Committee. I do not see any special merit in the suggestion especially when the employee has better statutory safeguards. There shall be no higgling of the matter at the committee level.

35.26 Clause 3 provides that the employees wishing to raise a grievance remains under obligation to comply with the order; Clause 4 states that the Grievance Procedure shall not apply to cases of termination of service or dismissal. Clause 5 contains the first step, viz. initial complaint to be made to the immediate superior, whereas Clause 6 speaks of appeal against the order of the next higher authority. This clause also says that the initial authority is to decide the complaint in 7 days. The workman can take at the most 30 days for going in appeal and the appellate authority is to decide the complaint in 14 days. On behalf of the Organisation it was said that the decisions should be quick and there should be no unnecessary dilution. They suggest 2 days and 3 days, respectively for deciding the matter at initial stage and appeal stage. I think the time limit stated should be given a fair trial. The 30 days time is for the employee to make up his mind and there is no delay of such a long time from the point of view of the machinery provided. If the workman is not satisfied, then under Clause 7, he can approach the Grievance Committee. Under Clause 8, the Grievance Committee is to dispose of the matter in 30 days. That took a little longer time but a fair trial may be given to it. Clause 8 also provides that the decision is to be communicated in further 7 days. Clause 9 speaks of the composition of the Grievance Committee as 2 representatives of the management, the Manager himself as the third representative and 3 representatives of the staff nominated by the recognised association. Clause 10 speaks of representation to the Grievance Committee. Normally, it should be by the employee himself or by a representative of the recognised association. There is, however, provision that in case a person making a grievance is not a member of the recognised association, he would have option to have a representative of his choice provided he is an employee and he is from the same centre. Here, so far as the Committee is concerned, though representative could be looked upon as an employee, but so far as the person making the grievance is concerned, he can, if he so desires, lay choice upon any member of some other registered union and it is this facility which is disliked by Mr. Phadnis for the Association. As a matter of fact, the drafts conceive wide powers to the recognised union and it is, only when a person making the grievance is not a member of the recognised union, it gives him option to get represented by any other employee though the Grievance Procedure does not recognise any other union as such, but out of abundant caution, in such contingency, it is provided that the Grievance Committee, in such cases where the person making the grievance says that he does not belong to the recognised union, that the Grievance Committee would be consisting only of the members of the management alone. In other words, the nominees of the recognised union would not be able to take part. It does appear inevitable when the person making the grievance has preferred not to have any link with the recognised union. On the contrary, imposing such members would smack of doing injustice to him.

35.27 Clause 11 states that the Procedure is not in supersession of the existing rights. Then there is Clause 12, which speaks of Central Consultative Committee, which is considered under Annexure 1. Clause 12, therefore, would stand deleted. Because of this deletion lines 2, 3, 4 in paragraph 1 would be deleted and the words "as follows" would be added at the end of line 1. Clause 13, as it stands, defines the recognised Association. Clause 14, again, as in the case of Joint Consultative Committee, speaks of alterations and modifications. Here also singular authority is given to the Bank to make any type of changes and, therefore, this clause will, for the reasons shown there, stand deleted.

35.28 At the time of discussions, the Coordination Committee as well as the Karmachari Federation and the Organisation suggested that the Committee should be an elective Committee of the employees, associated with the management representatives and that, therefore, the reference to recognised union should be deleted. I have given my anxious considerations to it. If the industrial discipline is ultimately to rest on the members of the recognised single union, of course, with due care and caution to see that it in fact represents the majority of the workmen, weightage to the recognised union should not be frowned upon. Opening the door for elective representatives would encourage fissiparous tendencies and, therefore, although all the contesting parties were vehement on this aspect, I am not inclined to delete this provision giving representation in the composition of the Committee to the recognised union.

35.29 The parties were also dissatisfied with Clause 3 which lays down that employees should first comply with the order with which the employee happens to be dissatisfied. Even Mr. Phadnis has a grievance about it. But in order to inculcate discipline and in order to see that we do not reach a chaotic position, retention of the clause appears more beneficial. As it stands, under Staff Regulation 32, every employee is under obligation to obey the lawful orders of the superiors. The fact that an opportunity is given to make a grievance should be no reason not to comply with that Regulation. Consequently, the clause is maintained.

35.30 The draft refers to a prescribed form for making a complaint. But a good prescribed form does not exist. Therefore, that expression would be deleted.

35.31 With the deletion of Clause 12 and 14 and upgrading the relevant clauses and deleting the words "prescribed form", the Scheme, as emerging, is approved and is shown as Annexure 'C' of the award.

CHAPTER XXXVI

Item No. 5.—Family Allowance (Relating to Ex-servicemen)

36.1 By the Award dated 17th June 1981, the Tribunal had approved the payment of family allowance to the employees of the Bank in terms of the agreement entered into by the Bank and the Association. However, so far as the payment of family allowance to the ex-servicemen is concerned, the Tribunal had directed that there will be further discussion at the time of Award—Part II—regarding the variations to be introduced in respect of ex-servicemen. (Para 9.12 of the Award dated 17th June 1981).

36.2 The Association has in its supplementary statement of claims dated 1st July 1981 demanded that for the purposes of deciding the entitlement of ex-servicemen employees of the Bank, their service in the army and armed forces should be taken into account. Similar demand has been made by the Ex-servicemen Employees' Welfare Association who, in their statement of claims dated 1st July, 1981, have demanded that the family allowance must be extended to all the ex-servicemen employees right from the date of their appointment in the Bank subject to the condition that they have put in 5 years' or more than 5 years' military service and in respect of ex-servicemen employees with less than 5 years' of military service, the period of their military service should be taken into consideration for qualifying period of 5 years for payment of family allowance to them. The Ex-servicemen Association have further demanded that they should be given option to claim family allowance either on per-child basis or on the basis of emoluments payable to them as was the position before the Bipartite Settlement of 1970. This option of family allowance was introduced under the Aiyar Award in 1968. It is the submission of Ex-servicemen Employees' Association that similar option is available to Class IV employees of the Bank to claim family allowance on child basis.

36.3 The Bank in its reply dated 17th August 1981, has submitted that the alleged grievances of certain sections of Class III employees, such as ex-servicemen employees, Cash Department staff and SC/ST employees cannot be agitated having regard to the terms of reference made to this Tribunal. The Bank has relied upon the order of references dated 16th June 1979, which is in regard to the dispute between the Reserve Bank of India and its Class III employees as a whole and not any section or sections thereof. The submission of the Bank is that it will not be lawful for the Tribunal to treat any segment of the Class III employees differently from the Class III employees of the Bank as a whole.

36.4 Incidentally, it is pointed out that similar demand was made by the erstwhile employees of the State Bank of Hyderabad working in the Public Debt Office who had been absorbed in the Bank. Their demand was that the service rendered by them in the State Bank of Hyderabad should be taken into account for qualifying period of 5 years for payment of family allowance. The Desai Tribunal had considered their demand in paragraph 5.25 of its Award and the demand for grant of family allowance to them prior to completion of 5 years service in the Bank and the claim made in this respect was rejected.

36.5 Although the item 'Family Allowance' is a settled matter, one of the paragraphs clearly contemplates giving favourable treatment to the ex-servicemen. Since no definite agreement was arrived at, it was inconclusive and therefore, we have now to state that favourable treatment.

36.6 It is now the contention of the Bank that it will not be proper for the Tribunal to treat any segment of the Class III employees differently from the Class III employees as a whole. Prima facie, it appears that when the Bank was sitting across the table for agreement they had different considerations. However, before the Tribunal they have a different face to show. In view of the specific determination expressed in the consent term, I am not prepared to accept the position of the Bank that the Tribunal's hands are tied in giving ameliorative treatment to the ex-servicemen.

36.7 Even under the Chapter dealing with ex-servicemen in paragraphs 6.5.2, I have indicated how the case of ex-servicemen differs from that of the SC/ST employees. What ex-servicemen want is removal of hardship resulting because of their late entry into the service. What they desire could be achieved by giving a little concession which, according to me, could be an incidental matter. It is in that light I am looking at the demand of the ex-servicemen to make them eligible for family allowance by taking into consideration their previous service so far as the precondition of 5 years' service is concerned.

36.8 Ex-servicemen have completed one service. They join the Bank late and at the bottom. They get the minimum salary. Under the rules, normally, they would not be entitled to any family allowance unless they complete 5 years of service in the Bank. Now, the ex-servicemen, right at the stage of their joining the Reserve Bank, by and large are in an advanced stage of age and family commitments. If the purpose of family allowance is to relieve that burden, they should be getting family allowance when they would really be having children or do have responsibility of maintaining a larger family. The jurisdiction of industrial tribunals has been indicated in the judgement reported in 1950 II LLJ 921, *Bharat Bank Ltd. vs. Employees of Bharat Bank Ltd.*, where the observations at page 948 are as follows:

"We would now examine the process by which an industrial tribunal comes to its decisions and I have no hesitation in holding that the process employed is not judicial process at all. In settling the disputes between the employers and the workmen, the function of the tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace. An industrial dispute as has been said on many occasions is nothing but a trial of strength between the employers on the one hand and the workmen's organisation on the other and the in-

dustrial tribunal has got to arrive at some equitable arrangement for averting strikes and lock-outs which impede production of goods and the industrial development of the country. The tribunal is not bound by the rigid rules of law. The process it employs is rather an extended form of the process of collective bargaining and is more akin to administrative than to judicial function."

36.9 Tribunal has thus to work on the principles of collective bargaining though the Tribunal does not sit for collective bargaining. In the interest of labour, if any modifications are considered necessary and equitable, it appears that it would be within the powers of the Tribunal to grant the same. By remaining alive to this duty of the Tribunal and also feeling satisfied about the practical need for considerations of removal of the hardship or in any case to bring the ex-servicemen on par wherever it is possible without doing much damage, I feel that the ex-servicemen should be entitled to the family allowance by counting their previous service and the service in the Bank which together could be of 5 years.

36.10 On behalf of the Bank it is said that similar demand was made by the employees of the State Bank of Hyderabad working in the Public Debt Office who had been absorbed in the Bank. Their demand was that the services rendered by them in the State Bank of Hyderabad should be taken into account for counting the qualifying period of 5 years for payment of family allowance. Desai Tribunal, after studying the case of each party and referring to the rules has disposed of the demand in the following words, in paragraph 5.25 of his Award:

"In my view, no case has been made out for requiring the Bank to grant them family allowance prior to the completion of 5 years service in the Reserve Bank of India and the claim made in that connection is rejected."

It is not known under what circumstances and on what conditions the persons of State Bank of Hyderabad were absorbed. Considerations for their absorption could have been different from giving service to ex-servicemen. As I have said earlier, their selection for Bank's service is to be considered with the combined outlook of utilising the experience and talent as well as giving a better deal to those persons who have done something for the country. On the analysis of the circumstances, I feel that so far as ex-servicemen are concerned, a good case has been made out for requiring the Bank to grant family allowance to ex-servicemen by taking into account their military service.

36.11 A question would arise as to why on these considerations, they were not given pay scales and wages counting their previous service. Obviously, their service is a new service. It is not an extension of old service. Therefore, it is futile to say that their previous service should be counted for wages and increments. Allowances such as family allowances are ameliorative measures. Some liberty can be taken in that respect. I am giving concession to count the previous service only for the purpose of family allowance but such service shall not be counted for wages.

CHAPTER XXXVII

Item No. 12.—More about promotions

37.1 In Chapter IV of award Part I, I had occasion to deal with this subject 'Promotion'. The Settlement had provided some definite promotional avenues in the Cash Department and the rest of the subject relating to Cash Department as well as promotional avenues for Typists, Comp-tists and other non-clerical categories, was left open. The item is thus not exhausted and, therefore, would fall for discussion.

37.2 Even at the time of Part I award, on behalf of the Bank it was stated that the Tribunal was not competent to decide anything in regard to promotion. This position is maintained inspite of the fact that there is a specific item 'promotion' in the reference unlike as in the past National Tribunal references where discussions on this aspect took place on items not titled 'Promotion'. In part I award after looking to the case law, I have said: "There is thus the jurisdiction in the Tribunal to look into the pros and cons of the general policy of promotion and where necessary to

suggest changes or to give directions without interfering with the discretion of the management so far as the application of the policy is concerned.

37.3 In the reply of the Bank dated 17-8-1981, under the item 'Promotion' case law has been cited some of which has been looked into. We may therefore re-examine the position. The Bank has put forward the following propositions.

- (i) Promotion is exclusively a management function and it is not open to an industrial tribunal to lay down any policy of promotion or to give direction that certain number of posts should be created, as this will all be within the management function, outside the scope of the jurisdiction of an industrial tribunal.
- (ii) Having regard to the decisions an industrial dispute can be raised only in respect of promotion of an individual employee and that too where the management has been actuated by malicious considerations or where the failure to promote an employee amounts to an unfair labour practice. In the absence of these factors, it is not open to an industrial tribunal to give any directions in regard to promotion, however, wide may be the terms of reference, as the terms of reference, have to be construed in the light of the decisions of courts.
- (iii) As no specific dispute has been raised before this Hon'ble Tribunal about any victimisation of any individual employee or about any unfair labour practice and as the reference to this Hon'ble Tribunal in regard to promotion is of a general nature the Hon'ble Tribunal should refuse to give any directions in regard to promotion on the ground that it is not competent in law, for the Hon'ble Tribunal to do so.

37.4 To take a resume of what has been stated earlier, it may be observed that—

In the Vishnu Mills Case, 1960 2 LLJ, 272 the question was of creation of higher post and promotion to that higher post. If a new post is created and a new man is appointed, it was said that it would not be taken as affecting the status of an existing employee.

In the India General Navigation and Railway Co., 1961 2 LLJ, 372, a board was constituted for looking to promotion but the constitution of the Board was declared impracticable. In that connection, it was also said that it was the management function to promote a person on due consideration. But even in that case, the Supreme Court approved a Scheme for promotion, in other words, the scheme for promotion can be formulated.

In the earlier Brooke Bond India Ltd. case, 1963 1 LLJ, 256, it was left to the discretion of the management to select persons for promotion. But it is said that the claim of the employees eligible for promotion should be duly considered. It is on this background that the particular formula evolved by the National Industrial Tribunal was looked into.

A formula can thus be evolved by a Tribunal.

In the All India Reserve Bank Employees Association vs. Reserve Bank of India, 1965 2 LLJ, 175, the Supreme Court have no doubt, reiterated that promotion is a matter of some discretion and seniority plays only a small part in it. It is also said by the Supreme Court that the dispute concerns with the internal management of the Bank and that the National Tribunal was right in thinking that the item of the reference in which it arose give little scope for giving directions to the Bank to change these regulations.

Chapter 17 of the Desai Award would show that the item under discussion was 'Need for maintenance of Combined Seniority list at each Centre'. In paragraph 17.7 the Tribunal said that having regard to the then recruitment policy and the promotion policy, directions cannot be given for maintaining combined seniority list for Coin/Note Examiners in the Cash Department and Clerks in any other departments or for Stenographers and Assistants. It is, therefore, that the Tribunal in paragraph 17.8 says as follows:

"In view of the limited scope of the item under reference, I am unable to give any specific directions to the Bank in connection therewith. I can only generally observe the desirability that such a list of employees should be maintained."

A reading of this observation would show that the Tribunal was looking at the problem in terms of item viz. 'Need for Maintenance of Combined Seniority list' and the Tribunal was not directly connected with an item such as 'Promotion'.

In the second Brooke Bond of India Ltd case, 1966 1 LLJ 402, there was already an understanding or formula regarding the way in which promotion should take place and the dispute was as regards its application with which certain persons happened to be dissatisfied. The observations of the Supreme Court are that in such cases unless there is element of mala fides or victimisation, there should be no interference with the management function.

The two other cases viz. Hindustan Lever Ltd. vs. Their workmen 1974 1 LLJ 94 and A. S. Misra's 1977 1 IC 584, relate to individual grievances. In the former, the court did assess the efficiency of the worker but since no mala fides were found in the assessment done by the management, the management's assessment was allowed to prevail. The latter case related to automatic promotion and inasmuch as there was absence of mala fides, the grievance was not upheld.

McLeod & Co. Ltd. 1964 1 LLJ, 386 gives some guidance regarding the field of operation of the Tribunals jurisdiction in promotion. Although normally it is the management function to employ persons and also it was the management function to grant promotion, the policy of re-employment adopted by the management came in for adverse comments. The alleged principle of helping retired persons was not accepted and hence directions were given not to re-employ retired persons on the ground that it hampered promotion.

37.5 In its statement dated 17th August, 1981, the Bank has emphasised the provisions of Staff Regulation 29 which lay down that promotion shall be made at the discretion of the Bank, notwithstanding seniority, and no employee would have a right to be promoted to any particular grade. They also relied upon the decision in Leela Bai vs. Reserve Bank of India, 1970 1 LLJ, 277, laying down that the question of appointment and promotions is an exclusive matter within the discretion of the Bank.

37.6 From the discussion made above, I think if I am to answer the four questions posed by me in paragraph 14.6 of Award Part I, I would answer them in the affirmative, that is to say the Tribunal would have jurisdiction to look into the promotions when there is a dispute between individual and management but the cases will have to be looked at from the point of view of mala fides, victimisation, etc. The Tribunal would also have jurisdiction when eligible meritorious persons who should otherwise be given promotional opportunities are completely brushed aside and no avenue for promotion are provided for them. The Tribunal would also have jurisdiction when management, regulate this discretion by making rules or by conventions and a question arises whether these conventions or rules were followed in true spirit. The Tribunal would also have jurisdiction when the case under discussion is whether any modification in such set of rules is necessary by reason of circumstances.

37.7 In Civil Appeal Nos. 2815, 2816, 2607 and 3150 of 1980, decided by the Supreme Court on July 27, 1981, the item No. 12—Promotion—of our reference had come up for discussion. The appeals were against my award dated 3rd September, 1980, disposing of the complaints under Section 33(A) of the Industrial Disputes Act, 1947. It has been observed by the Supreme Court that—

"unless it is determined what the dispute was that has been referred for adjudication, it is not possible to say whether a particular matter is connected with it."

It is further observed as follows:—

"We do not think it reasonable to suppose that the order of reference required the Tribunal to adjudicate on all possible matters relating to promotion".

In view of these observations, while discussing promotion and while discussing the various suggestions made by the contesting unions on this point, the Tribunal will have to determine as to what matters relating to promotion could be

decided under this reference. Looking to the earlier discussions made by me and keeping in mind the principle that promotion is normally a management function, according to me, whenever the question is one of selecting a person or appointing a person to the existing posts, the Tribunal will have no jurisdiction unless it is a case of mala fides or victimisation. In this reference, no question of any individual grievance has come up before me. The demands made in substance, speak of creating situations whereby employees at particular places are able to move to higher posts with higher salary. The propositions (ii) and (iii) of the Bank noticed in paragraph 37.3 above which relate to individual employees and victimisation aspect do not therefore, survive so far as the present reference is concerned. Proposition No. (i) involves two aspects—one relating to laying down the policy of promotion and the other giving directions for creating posts. So far as creation of post is concerned, even when the idea is to afford larger occasions for the existing personnel to get better prospects, looking to the principle that how to organise the business is left to the management, it would not be possible to give directions on that point under promotion. However, when it comes to laying down policy, the proposition made out by the Bank can not be accepted. If it is a general policy in favour of all the incumbents and if the position or discussion on it does not involve anything in the nature of dabbling with the discretion of the management, the Tribunal could certainly look into it.

37.8 It is in this light that the various proposals made by the contesting unions are hereafter looked into by me.

In the statement of claim filed by the Organisation on 21st November, 1979, under the head promotion, they have said that for promotion to the post of Staff Officer Gr. A, 80 per cent of the promotion should be done strictly on the basis of seniority and the remaining 20 per cent promotion may be done on the basis of merit. They have also said that the present scheme of written test and the system of interview has generated frustration among the employees. So far as the non-clerical cadre is concerned, they should have free mobility to clerical cadre without losing any seniority. They have also said that in the Cash Department, there should be a ratio of 1 Asstt. Treasurer to 20 Coin/Note Examiners and further restructuring of the Cash Department.

37.9 In its statement of claim dated 11-1-1980, the Co-ordination Committee, while dealing with Promotion Policy has demanded promotion to the next higher cadre of nearly all categories of employees working in the Cash Department, i.e., Coin/Note Examiner Gr. II, Coin/Note Examiner Gr. I (performing duties of Group Supervisor) and Punching Supervisors. Similarly, they have demanded reduction in the number of Coin/Note Examiners from the present 40 to 20. In substance, their demand is that Group Supervisors and Punching Machine Supervisors who are presently Coin/Note Examiner Gr. I be upgraded as Tellers and assistant to Assistant Treasurer who is presently Coin/Note Examiner Gr. II should be promoted as Coin/Note Examiner Gr. I. Further, Coin/Note Examiner Gr. II doing miscellaneous duties such as maintaining of records, etc. should be upgraded as Coin/Note Examiner Gr. I. Similarly, salary disbursement which is presently performed by a Coin/Note Examiner Gr. I assisted by a Coin/Note Examiner Gr. II, it is the demand of the Co-ordination Committee that these duties be performed by Tellers assisted by Coin/Note Examiner Gr. I. The Co-ordination Committee has further requested that Personal Assistant to Asst. Treasurer should be a Coin/Note Examiner Gr. I. Further, assistant to Teller should also be a Coin/Note Examiner Gr. I.

37.10 As regards promotion of Class III employees to the officers cadre, the Co-ordination Committee has suggested abolition of the written test and promotion to be effected only on the basis of seniority. Alternatively, they have submitted that panel for promotion to Staff Officer Gr. A should be prepared every year on the basis of seniority-cum-merit. In offices where there is no stagnation, all Clerks Gr. I should be called for interview irrespective of length of service and in offices where there is stagnation, all Clerk Gr. I/Coin/Note Examiner Gr. I with 7 years service be called for interview. Similarly, the same principle should apply to Stenographers and Typists and other non-clerical employees without regard to whether they are graduates or have passed CAIIB.

37.11 The Co-ordination Committee have also suggested the modification of the written test scheme for promotion to Staff Officer Gr. A and have requested that all those who have qualified in Part I of CAIIB or have completed 10 years of service should be exempted from appearing for English paper. No regard should also be had to the Confidential reports for considering the employees for promotion and that Stenographers, etc. should be exempted from Book-keeping and Practice and Law of Banking as in the case of other employees. Further the minimum marks for passing should be reduced to 30 per cent. In any case, according to the Co-ordination Committee, there should be no direct recruitment to the post of Staff Officer Gr. A in the Bank. As regards other avenues of promotion, the Co-ordination Committee has suggested post of Assistants to be created in all departments of the Bank and that officers in Gr. E should be provided with Personal Assistants. Similarly, promotion to the post of Economic Assistant should be without any interview and on the basis of seniority alone. Non-clerical employees should be allowed to switchover to clerical side without loss of seniority.

37.12 On behalf of the Ex-servicemen, in their statement of claim dated 11th January, 1980, on the item 'Promotion', it is said that military service must be reckoned for promotion subject to confirmation and passing the prescribed examination.

37.13 The Organisation filed a supplementary statement on 27th July, 1981 on 'Promotion'. What is stated is as follows:

(A) Reorganisation of Cash Department :

The reorganisation of Note Examination Sections has become absolutely necessary to ensure proper output, efficiency and clarity and also to do away with the present bazaar-like atmosphere in the Examination Sections. Incidentally, this will open more opportunities of promotion to Cash Department employees though not adequate. The Organisation suggests the following scheme to achieve the above objective.

The Note Examination Section should consist of 4 groups. Each group should consist of 4 Coin/Note Examiners Gr. II as examiners and 1 Teller as Group Supervisor. The Assistant to the Assistant Teller (Table Assistant) should be designated as Coin/Note Examiner Gr. I. The posts of Punching Supervisor should be up-graded as Tellers, as it has been done in respect of employees entrusted with Postal and Railway Station duty.

(B) General side :

The Assistant's cadre existing at present only in some of the Central Office departments like Statistics Department, Economic Department, etc. and in Agricultural Credit Department or other offices of the Reserve Bank of India. This has created promotional imbalances in the general side departments. The Exchange Control Department which is one of the important departments dealing with foreign exchange is not provided with assistants cadre. So is the case of Banking and Issue Departments. Therefore, the Organisation demands that the Assistant's cadre be introduced for the following desks in the general side departments to ensure better promotional opportunities.

1. All the counters in general side of the Issue Department, Banking Department, Public Debt Office and Exchange Control Department.
2. Verifiers in Note Verification Section of Issue Department.
3. All such other desks which are special in nature of work being different from routine clerical work and which require higher responsibility.

(C) Promotional avenues for non-clerical cadre other than Cash Department employees :

1. Typists :

For every four typists, there should be one Head Typist who should be given a special pay of Rs. 50 per month.

2. Creation of posts of Stenographers :

The Organisation demands that each 'C' Grade Officer of the RBI should be provided with one Stenographer.

3. Creation of posts of Personal Assistants :

All the stenographers attached to 'E' Grade Officers of Reserve Bank of India should be upgraded as Personal Assistants.

4. Building Overseers :

The Reserve Bank of India is having a number of estates by way of offices and staff colonies and has in its employment a large number of Overseers. The work of these Overseers is of technical nature and akin to Assistant Engineers' work. As such, instead of direct recruitment of Assistant Engineers, the Organisation demands that Overseers should be promoted to these posts on the basis of seniority.

5. Pharmacists :

The Reserve Bank of India is having office as well as colony dispensaries and a large number of Pharmacists are employed in those dispensaries. In all the centres of RBI where there are more than three pharmacists, there should be one Chief Pharmacist for every four Pharmacists, the post of which should be equivalent to that of Assistant's.

6. Punch Operators :

The Reserve Bank of India is having its own Machine Section and nearly 180 Punch Operators are employed there. As there are no promotional avenues for them; they are stagnating and retiring in the same cadre. To enlarge the avenues of promotion, and ensure efficiency in the section, the Organisation demands that there should be one Sorter Operator in the grade of Assistant for every four Punch Operators and there should be one Supervisor in the grade of Staff Officer Gr. A for every 20 Punch Operators.

(D) Drawal of salary in next higher grade in case of stagnation :

The Hon'ble Tribunal has observed in its Award Part I dated 17th June, 1981 that whenever an employee in the Cash Department reaches maximum, he should receive the salary in the higher grade. Logically, the Organisation urges and demands that such a provision be extended to all employees in Class III in view of the mounting stagnation in entire Reserve Bank of India.

(E) Switchover of Non-clerical employees to clerical Cadre :

The Organisation reiterates its demand made in the Statement of claim dated 21st November, 1979 that there should be free mobility from non-clerical cadre to clerical cadre without losing any seniority.

37.14 On 1st July, 1981, the Association filed a supplementary statement on items in the Settlement not covered by the Award Part I. Their statements are as follows :

- The staff strength of the Note Examination Section in Cash Department be determined in the ratio of 1 : 5 : 20 of Assistant Treasurer, Supervisors and Examiners respectively.
- The posts of Punching Supervisor be upgraded as that of Teller.
- The posts of Group Supervisors be upgraded as that of Teller.
- The posts of Table Assistant to Asstt. Treasurer be upgraded as that of Coin Note Examiner Gr. I.
- All miscellaneous posts dealing with railway and post office duties be upgraded as that of Tellers.
- Posts of Assistants in Group IV should be created in all departments of the Bank besides addition of those posts in departments where they now exist.
- Posts of Personal Assistants should be created in all offices of the Bank and for every 'E' Grade Officer.
- Additional posts of Stenographers commensurate with the number of offices of various grades should be created.
- Posts of Head Typists should be created in the ratio of one Head Typist for every 4 Typists with a special pay on par with telex operator.
- All categories of Class III staff in primary cadre, Typists & Comptists in particular, should also be

included in common cadre for purposes of recruitment/seniority, there being additional proficiency test for technical categories.

- (k) Scheme for switchover of Non-clerical employees to clerical cadre should be liberalised and extended to undergraduates.

37.15 The analysis of all these statements would show that almost all contesting parties desire many things commonly, more so, when it is the set up concerning the Cash Department. On behalf of the Bank a detailed statement taking care of all these statements has been filed, denying each of the demands made. A glance at the objections raised on behalf of the Bank would show that the contentions raised are that the submission made does not fall under the item 'Promotion' or that it is the management function and, therefore, the discretion of the management could not be interfered with and that no good reason is given in support of the suggestions.

37.16 As regards the say of the Organisation for reserving 80 per cent of promotions to Staff Officer Gr. A on the basis of seniority alone, in the discussions it is understood that 92 per cent of the vacancies in Staff Officer Gr. A are filled from Class III employees. The claim made by the Organisation has to be understood as filling 80 per cent out of this quota by seniority alone. This is against the principles of promotion. Seniority does play a part in promotion but there could not be any directions asking the management not to consider merit. The suggestion, therefore, must fall down.

37.17 As regards the changes suggested in the Cash Department, whether given as a list by the Coordination Committee or by the Association or whether mentioned as in the statement of the Organisation, it is worthwhile noticing that the Organisation has entitled it as reorganisation of Cash Department. Initially, therefore, even the Organisation is looking at the submission as re-organisation. Now on this score, there is very little that any Tribunal can do in law. Detailed case law need not be cited on this aspect. We can look to the decision in *Parry & Co. Ltd. vs. 2nd Industrial Tribunal, Calcutta*. What is stated on the subject is as follows :

"It is well established that it is within the managerial discretion of an employer to organise and arrange his business in the manner he considers best. So long as that is done bona fide it is, not competent of a tribunal to question its propriety. If a scheme for such reorganisation results in surplusage of employees no employer is expected to carry the burden of such economic dead-weight and retrenchment has to be accepted as inevitable however, unfortunate it is."

Similarly in *Hindustan Lever Ltd. vs. Workmen*, 1973 1 LLJ, 427, the Supreme Court has made the following observations :

"There can be no dispute that the employer has got the right to organise his work in the manner he pleases as was held in *Parry & Co.* case (1970 1 LLJ, 429)".

In 1977 2 LLJ, 199, *Caravan Good, Carriers Pvt. Ltd. vs. Labour Court*, in paragraph 5 of the judgement, following observations are made in connection with upholding the right of the management :

"As to how best to secure efficiency of service and as to whether it would be desirable in the interests of administrative convenience to effect transfers are all matters which the management alone could decide."

Anything in the nature of suggesting reorganisation, therefore, would not be a valid direction. Now what is suggested almost commonly by the contesting unions so far as Note Examination Section is concerned is that whereas at present a group consists of 1 : 5 : 40, that is, one Assistant Treasurer, 5 Supervisors made up of 4 Group Supervisors and one Punching Supervisor and 40 Coin/Note Examiners Gr. II in 4 batches, the combination should be 1 : 5 : 20. With this change, each Supervisor will have to look to only 5 persons instead of 10 persons examining notes. The strength of the Group Supervisors would, therefore, be doubled. It was

stated by the Bank that no reasons have been assigned for this change. Possibly in view of it, at the time of arguments, Association filed a statement reiterating the demands which, I find, are called up from the demands made by other unions and have attempted to give reasons for the suggested changes. In connection with these re-groupings, it is said that smaller group means better supervision, less insecurity and improved working conditions. Although this has been, therefore, supported in the name of security and better working conditions, we cannot appreciate the insecurity point or how, under the present system it is not possible to work or how exactly better supervision is absolutely necessary. In the absence of it, the mere recitation of these expressions would not be of any aid to the Tribunal and on this background, the whole suggestion would shake the character of re-organisation alone. When it is so, the same cannot be accepted as no directions on restructuring or re-organisation simpliciter could be given.

37.18 The Association has suggested upgrading of Punching Supervisor to the grade of Teller and upgrading of Group Supervisors also to the post of Tellers. This is also demanded by the Coordination Committee. At present, these Supervisors are Coin/Note Examiners Gr. I. While giving the reasons in its statement filed at the time of argument by the Association, what is done is only detailing the duties of these two categories of persons. As it stands it involves upgradation. It is difficult to say that upgradation is promotion because the duties remain the same and there is no movement to any higher place. Upgradation involves creation of more posts in relation to the posts corresponding to the suggested upgraded posts already existing. Creation of a post is a managerial function as can be seen from Vishnu Mills case (supra). On this ground, the suggestion would fall outside the scope of item No. 12, 'Promotion'.

37.19 In this connection, the say of the Cash Department looks to be more material. The Cash Department has referred to the upgradation provided in Part I award, which is on the agreement between the Association and the Reserve Bank of India. Under that award, persons assisting the Tellers, who were formerly Coin/Note Examiners Gr. II are now made Coin/Note Examiner Gr. I. Their duties however remain the same. This is on the exchange counter side. Similarly, on the payment side, Coin/Note Examiners Gr. II who are assisting Tellers have also been now upgraded as Coin/Note Examiners Gr. I. Basically, both these types of employees have only to assist the Teller. Group Supervisors are also now Gr. I Coin/Note Examiners. According to the Cash Department, the Group Supervisors have far more responsible work than the assistants to Tellers. Their submission is to make these Group Supervisors Tellers. It is argued on behalf of the Cash Department that by keeping the Group Supervisors as Coin/Note Examiners Gr. I, more so when they are senior persons would create disparity and discontent. On analysis of the work done by Group Supervisors and the persons assisting the Tellers, I feel there is lot of substance in the grievance made. I refrain from giving any direction that the Group Supervisors be upgraded because it does not fall under promotion. I only wish that the Bank does consider the suggestion in earnestness in the light of their own acquiescence under the Settlement even before the award was given upgrading the assistant to Teller and decide for themselves whether the case of Group Supervisors should be dealt with on the same lines. As the matter stands, by this award, no upgrading is made.

37.20 The next suggestion is that post of table assistant to the Assistant Treasurer be upgraded to Coin/Note Examiner Gr. I. At present, it is the job of a Coin/Note Examiner Gr. II. Similarly, it is suggested that miscellaneous posts dealing with railway and post office duty be upgraded to those of Tellers. Now, these submissions also basically are to be understood for upgradation of posts. No good reasons are given and, therefore, it has the character of creation of additional posts only and, therefore for the reasons already stated, this suggestion cannot be accepted.

37.21 It is further said that post of Assistants in Group IV should be created in all departments of the Bank wherever they are not existing and that post of Personal Assistants be created in all offices of the Bank and for every E Grade Officer. What is stated for reasons is, giving the duties of the post and I cannot gather any sound reason for these suggestions to create new posts. The suggestion thus suffers the defect of asking the management to create posts. Such sug-

gestion cannot be accepted. Likewise, it is said by the Association that additional posts of Stenographers commensurate with the number of officers be created. This is also a general suggestion without describing the implications of it and without telling how each stenographer would be having what work and, therefore, it can not be accepted.

37.22 A further suggestion is for the creation of posts of Head Typists. It is said that he should be given the duty of distribution of work to typists. Although only special pay is suggested for this post, the acceptance of the suggestion would involve creating one more cadre of Head Typist and would thus damage the entire grouping, which is already finalised. Therefore, this suggestion cannot be accepted.

37.23 It is further suggested that all categories of Class III staff in the primary cadre such as Typists, Comptists etc. should be included in the Common cadre. Now this suggestion is prima facie impracticable. Class III staff in the primary cadre would include Cash Department pre-1972 recruits, who may be non-graduates about whom much has been said earlier and their mobility as well as mixing them in common cadre has been denied. Something is said about typists and comptists, who are mainly with technical proficiency. If they are to be put in common cadre the first test should be of inter-changeability. If mixing up with clerks is allowed, that test is not satisfied and the suggestion, therefore, is void of merit. When the Association speaks of liberalisation of the switchover scheme of non-clerical employees to clerical cadre, and its extension to under-graduates, after discussion relating to common cadre in which incidentally they did not show any interest earlier, the suggestion ill fits acceptance.

37.24 On behalf of the Organisation, a suggestion is made to create posts of Personal Assistants. As a matter of fact, the existing Personal Assistants were made officers by reason of the Award in NTB 2 of 1979 and now the demand that a new cadre should be created cannot be accepted.

37.25 As regards the suggestion that instead of direct recruitment of Assistant Engineers, overseers should be promoted to these posts on the basis of seniority, it is understood that at present overseers are given such a chance. As regards seniority, no direction could be given inasmuch as seniority and merit will have to be judged by the management and without any specific case of unfairness or victimisation or malafides, nothing wrong could be found with it. On the basis of the principles involved in organising a business, no direction could be given not to recruit anybody directly as Assistant Engineer.

37.26 It is further said that where there are more than 3 Pharmacists in a centre, there should be one Chief Pharmacist who will be equivalent to an Assistant. No reason has been given for creating this post. Nothing about what duties to be assigned to such Pharmacists has been stated excepting that at the time of argument, it was said that the would be in-charge of the drug store. That work is already being done now and what is the exact efficacy of shelving it is not understood. The suggestion, therefore, is not accepted.

37.27 It is suggested that there should be Sorter Operators in the grade of Assistants for every four Punch Operators, and there should be one Supervisor in the Grade of Staff Officer Gr. A for 20 Punch Operators. This cadre exists only in Bombay and except the blunt suggestion, nothing to support it could be appreciated.

37.28 The Organisation also suggested creation of 4 Zones for the purpose of seniority and panel of eligible employees. This again is a question of organising the business and no direction could be given in that respect. It is also said that the review of the expected vacancies should be taken up in the month of December. This again is an item which cannot be understood, in relation to promotion.

37.29 The Coordination Committee in their statement dated 11th January, 1980 suggested that the written test for promotion to Staff Officer Gr. A should be abolished and promotion be affected by seniority and a panel for Staff Officer Gr. A be prepared on the basis of seniority-cum-merit. At the time of argument, the Coordination Committee gave a statement changing this line of submission because what is suggested is that there should be 2 papers for certain persons and 3 papers for certain other persons. Note, this again involves the operation of finding out the suitability

for promotion and it would be best left to the management to find out the process which could not be interfered with unless mala fides or victimisation or unfairness is pointed out.

37.30 The Coordination Committee has also said that there should be reservation for SC/ST employees in accordance with the scheme prevailing in the Government departments. While considering the position of SC/ST employees in relation to this reference, the subject is discussed and it has been said that there cannot be considerations or any special treatment for the class envisaged in the type of reference, which is made to this Tribunal. For this very reason all the submissions whether in the nature given by the SC/ST in the statement given by them at the time of argument which are in the nature of reservations, special treatment and ruling based upon certain memos and circulars cannot be accepted for directions under item No. 12.

37.31 On behalf of the Ex-servicemen it is said that their military service be reckoned for promotion subject to confirmation and passing of the prescribed examination. This also is not acceptable. It is another way of saying that their services earlier than joining the Bank should be recognised for grade pay and promotion to high rank. The order passed by me at the time of making their party disclose that SC/ST Federations or the Ex-servicemen are given an opportunity to aid and help in arriving at conclusions on general basis and with a view to seeing that no prejudice is done to them. The case of positive special treatment cannot be considered under this reference. The most that could be done is to consider them in the general stream of employees and look at the hardship faced, so that by modifying existing provisions marginally, relief could be given or hardship could be removed. That is what I have done while deciding their Family allowance. That alone would be the function in relation to such persons in this reference. Because of these considerations, the suggestions given by ex-servicemen under item No. 12 cannot be accepted.

37.32 Then we come to the suggestion made by the organisation regarding the drawal of salary in next higher grade in case of stagnation. Similar suggestion has been made by the Association in their supplementary statement dated 1st July, 1981. This is obviously because of my observations in paragraph 14.19 where to avoid frustration and consequent loss of interest in the job, affecting performance and efficiency of these highly experienced workmen in the Cash Department. I have said that as long as a pre-1972 recruit remains in the Cash Department and when such an employee in the Cash Department reaches the maximum of the scale, he should receive salary in the next higher grade. The suggestion made by the Association and Organisation being of general nature nullifies the resultant effect of what I have said in paragraph 14.19, for giving special relief to the Cash Department employees, who have suffered for a number of years without good openings. I have said that the final shape to be given to that idea and how it could work, will be decided later. But the whole efficacy of that suggestion gets drowned when other Class III employees in Reserve Bank are treated on the same footing. That suggestion as a general suggestion cannot be accepted.

37.33 I am thinking in terms of benefiting the pre-1972 recruits from the Cash Department. When the benefit is not given to other Class III employees, it might be argued that the treatment given to the pre-1972 Cash Department employees is discriminatory. However, as has been said earlier they have a special case. The discrimination having been based on considerations of providing a sort of uplift to them and since the pre-1972 employees in the Cash Department can be looked upon as a Class, according to me there would be no bar of Article 19 of the Constitution of India.

37.34 When, however, I come to a detailed consideration of my own suggestion I find that the relief to be given should not be in terms earlier contemplated by me. When a person is allowed to get the salary of the higher grade, he may not be obtaining promotion because he does not move to the higher place. His duties also do not change. What he gets in addition to his pay packet on account of or out of considerations of his being unable to move up for a very long time although he might be eligible for going up. He is thus stagnated. In Chapter VII of Award part-I, stagnation allowance in terms of the consent terms arrived at between the parties was looked into. Under that Award, even a pre-1972 Cash Department employee would be entitled to the stagna-

tion increment every five years after his reaching the end of the grade. My granting the pay in the higher grade in which a person would have moved is likely to have conflicting effect because within the pre-1972 group, those coming to the end of the scale later on would probably be eligible for larger benefit in relation to their own seniors, who have reached the top of the grade and qualify for stagnation increment only after the completion of 5 years. Since then, I am, therefore, dropping the idea of giving salary in the higher grade.

37.35 In order that the benefits to be given should be more or less judiciously distributed each such employee after attains the end of the grade should get something additional to his pay packet fairly after the same interval, although some difference is inevitable as I do not make the benefit retrospective in operation and therefore falling under item No. 34. If a lump sum benefit is granted in terms of unqualified addition to the pay, the same will be counted for Dearness Allowance and for other allowances and in that light the benefit granted although in happiness to be granted to pre-1972 Cash Department employees forming as a class, it would be slightly more than what is intended when viewed in terms of all the class III employees. Consequently, the grant of addition to the salary which I am inclined to call as 'non-promotional compensation' should not be qualified for Dearness Allowance or other allowances.

37.36 If a person were to move in the higher grade the present structure of the grades shows that he would have got about Rs. 65 more per month. Since the amount would not attract Dearness Allowance and other allowances the amount to be granted as addition should be more than Rs. 65. Considering all aspects I think that the non-promotional compensation should be Rs. 80 per month per year, starting from the next year after an employee in the Cash Department reaches the end of the grade. It need not be granted for a long time so as to make him earn indefinitely. There could be only 3 such grades of non-promotional compensation to one employee.

37.37 To sum up therefore, non-promotional compensation of Rs. 80 per month is granted to such of the pre-1972 employees in the Cash Department who reach the end of the grade. The benefit to start from one year after reaching the end of the grade and to last for not more than three years. The employee will not be entitled to this benefit if he switches over to other Department under different schemes. The compensation so granted will not be eligible for D.A. or the other such allowance.

37.38 Now one more point to be considered is the argument of Mr. Duthia that in case no relief could be given to the Cash Department employees who are not graduates to go to the combined cadre by abrogating the scheme covered by A.C. No. 9, or in case modifications in the nature of reducing the loss of 2/3rd seniority could not be done, then at least Cash Department personnel should be allowed to go to the clerical cadre by opting to go at the bottom.

As regards the argument for reduction of 2/3rd loss, what was suggested was that instead of making them lose 2/3rd seniority it could be 1/3rd or 1/2. But that again is changing the scheme envisaged in the A.C. and as remarked in Chapter VI of part I of award, would become an independent subject. For lack of any such item with reference of it cannot be considered, even on merits.

37.39 What remains is the submission that the Cash Department personnel, though matriculates, should be allowed to go to the bottom of the common cadre. Now, this suggestion is given for the benefits of non-graduates. A.C. No. 9 of 1972 deals with graduates. Under the suggestion, that circular remains intact. No question of, therefore, dabbling with the switch over contemplated by that circular comes in. The suggestion is pressed on the footing of the circular dated 8th October, 1973 where Class IV employees though matriculates and though not having English or Maths as subject in matriculation can join the bottom of the clerical cadre after going through the requisite test. It is said that this is glaring disparity, inequity and injustice. When Class IV employees are allowed to join the clerical cadre and thus finally become eligible for being officers the pre-1972 Cash Department employees cannot have that opportunity. In the way in which the suggestion is made, there is nothing which goes to modify the circular in relation to Class IV employees. Therefore, in one sense the proposal is an independent pro-

posals. After 1972, all recruits in Class III cadre are graduates. Therefore, the suggestion is to be accepted only in relation to pre 1972 recruits. The junior most of them, would be now having 9 years seniority. Others would be having more standing. Now under the suggestion whatever be the seniority it is lost and the person after crossing over goes to the bottom. Although the argument was made by Mr. Dandia in all seriousness, how many of the employees would really be interested in losing the benefit of all their 9 years seniority or more is very much doubted. I am told that the salary of persons changing over is protected. In that case, there would be temptation to try the luck on the other side. Taking a practical view of the matter, I am in extreme doubt whether any pre-1972 recruit would like to abrogate all his seniority and his chance in the Cash Department itself because he has come up very long now. But in case the suggestion is to be studied we have first to determine whether it would fall in any of the subjects under reference. The only one would be whether this can be taken as a subject connected with promotion. As in the case of giving salary in the higher grade, by accepting the suggestion there is no immediate rise in the pay packet. What is to be determined would be the eligibility for shifting. I am afraid, therefore, it will not be looked upon as a subject connected with promotion. For this reason, although the suggestion has a lot of merit in pin-pointing the invidious discrimination made by the Bank in relation to Class III employees and the merit of removing it to a certain extent, cannot be accepted for giving directions. I have already discussed, what according to me, would fall for consideration in the topic of promotion. It would be useful here to refer to paras 529 and 530 of Shastri Award which provide rules regarding promotion. In the first place it could be said that there is no hard and fast rule and that promotion is entirely a matter in the discretion of the management and that seniority and merit should be considered. Efficiency and difference in qualifications should also be considered. An opportunity to compete should be given where there is recruitment to a particular post. Now, relying upon the principles so involved and keeping in mind the seniority efficiency and also of course, suitability to be gauged by the Reserve Bank, I would only recommend to the Reserve Bank to consider such applications most favourably when any matriculate employee of Cash Department comes forward to forego his entire seniority to join the clerical Class III cadre at the bottom.

CHAPTER XXXVIII

Item No. 15.—Superannuation benefits such as Provident Fund, Gratuity, Pension etc. (Pension).

38.1 So far as the payment of Provident Fund and Gratuity are concerned, this Tribunal by paragraphs 17.5 and 17.16 of the Award dated 17th June 1981, approved the present quantum and conditions subject to which the Provident Fund and Gratuity were payable to the employees of the Bank. As regards pension, since the Settlement provided only for the study group for the Bank, within one month from the date of Settlement, to examine the depth and feasibility of introducing the pension scheme, there being no finality, this was not included in the Award based on Settlement and this Tribunal had vide paragraph 17.17 of its Award dated 17th June, 1981, directed that the subject could be discussed afterwards.

38.2 In its Statement of claims dated 1st July, 1981, the Association has submitted that the Study Group on Pension Scheme was set up on 27th October 1979 comprising representatives of the Bank and the recognised Association of the workmen employees. The Study Group formulated a pension scheme and submitted the same to the Bank on 25th May, 1981 recommending its introduction, which has since been forwarded to the Government of India by the Bank. It is the submission of the Association that the Pension Scheme as formulated by the Study Group be introduced for the employees of the Bank.

38.3 The Organisation has also demanded the introduction of the Pension Scheme in the Bank. It is said that the Bank has collected certain data some years back from all the branches of the RBI in connection with the introduction of the Pension Scheme.

38.4 The Co-ordination Committee has demanded that 50 per cent of the last drawn pay and D.A. should be granted as pension on the retirement of the employee. The family pension may be allowed as 1/3rd of the last drawn pay and D.A. to the surviving spouse.

38.5 Cash Department and Karmachari Federation have demanded the formulation of the suitable Pension Scheme, on the lines of the schemes introduced in the Government Departments and other Government undertakings, including family pension.

38.6 No demands have been made in this connection either by the Ex-servicemen or Scheduled Caste/Scheduled Tribe Employees' Federation.

38.7 The Bank has objected to the introduction of third retirement benefit of pension as demanded by the "Workers' Organisation" "Employees' Association" on the ground that the normal rule in the Industrial Adjudication is to provide only two retirement benefits. As the Bank has already provided the Provident Fund and Gratuity, there is no case for giving any direction regarding the pension scheme for the employees of the Bank.

'Introduction of Pension Scheme' was one of the items of reference before the Desai Tribunal and there also it was the submission of the Bank that there was no case for granting of the third retirement benefit viz., pension. While rejecting the demand for pension, the Desai Tribunal in Paragraph 2.19 of its Award dated 8th September, 1962 held that two retirement benefits provided by the Bank were sufficient and there was no need for any additional retirement benefit. On an appeal against the Award, the Supreme Court in the case of All India Reserve Bank Employees' Association v/s. Reserve Bank of India reported in (1965) 2 L.J. 175 rejected the appeal and approved the directions given by the Desai Tribunal.

38.8 The Aiyer Arbitrator had similarly rejected the demand for Pension Scheme in addition to the Provident Fund and Gratuity. The Learned Arbitrator in paragraph 19.2 of his award observed that the third benefit of Pension was not allowed either by the Tribunal or in the Government service. While rejecting the demand, for the introduction of pension, the following observation in paragraph 19.3 were made.

"If the Bank however, in future framed a Pension Scheme as an alternative to the Provident Fund Scheme, the employees covered by this Award should have right to elect to opt for the one or the other."

38.9 The Bank has also taken the legal objection that it is not competent for the Tribunal to give any directions for constitution of the Pension Scheme as that would involve amendment to the Reserve Bank of India Act, 1934 which can only be done by the Union Parliament and not by the Industrial Court. Under Section 30 of the Life Insurance Corporation Act, 1956, L.I.C. has exclusive privilege of carrying on the life insurance business in India. The term "Life Insurance Business" as defined in Clause (11) of Section 2 of Insurance Act, 1938 includes inter alia granting superannuation allowances and any dues payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or to the dependent of such persons. Therefore, constitution of pension scheme would require the statutory amendment. In this connection the Bank has referred to State Bank of India (Amendment) Act, 1959. Amendment was made to enable the State Bank to establish a pension and superannuation fund which it could not do earlier in view of Section 30 of the Life Insurance Corporation Act, 1956.

To sum up the Bank has taken objection both on legal grounds and on merits that there is no case for introduction of third benefit of retirement.

38.10 Although it appears that the Study Group to examine the feasibility of the pension scheme did go into the question. Curiously enough, on behalf of the Bank not a word was said about it nor anything about the achievement of that Study Group nor also how and why the recommendations, if any, given by the Group could or could not be accepted. The Statement given by the Bank in this connection shows the objections of the Bank for the introduction of the 3rd retirement benefit. They refer to the normal rule of the industrial adjudication to provide only 2 retirement benefits. They referred to the Desai Award which rejected the demand for the 3rd retirement benefit in the nature of pension. It is also submitted that Aiyer Award similarly rejected the demand for Pension Scheme in addition to the Provident Fund and

gratuity. Observations of Aiyar Award in paragraph 19.2 show the mind of the learned arbitrator that in case in future any pension scheme was framed as an alternative to the Provident Fund Scheme, the employees should be given an option. The learned arbitrator was thus visualising the Pension Scheme as an alternative to the Provident Fund. In addition to this, the Bank has also stated that the Tribunal is incompetent to give direction for constitution of the Pension Scheme which would involve amendments to the Reserve Bank of India Act, 1934, which can only be done by the Union Parliament and not by the Industrial Court.

38.11 As against this the Association addressed the Tribunal showing that the Study Group has completed its discussions and submitted a report on 25th May, 1981. In fact, a copy of that Report is made available to this Tribunal. According to the Association, Pension Scheme as formulated by the Study Group be introduced for the employees of the Bank.

38.12 It has already been noted that Organisation, Coordination Committee and the Karmachari Federation are supporting the demand for introduction of Pension Scheme. On behalf of the Organisation further suggestions are made as to how the Scheme should be. The Organisation and the Coordination Committee have also stated something about family pension.

38.13 Since introducing a Pension Scheme would involve the amendment to the Reserve Bank of India Act, 1934 and anything said even by way of word in favour of introducing a Scheme would always be subject to the decision of the Union Parliament the hands of the Tribunal are not free, so as to deliver goods directly to the workmen. Apart from that, after giving some anxious thoughts, I am not in favour of giving a third retirement benefit. The third retirement benefit may have to be seen on considerations of capacity of the employer to sustain the burden as well as on considerations of the need or worth of it to the employees. Perhaps, in the case of the Reserve Bank of India, it could be said that the question of capacity to pay does not arise. We must however, remain aware of the chain reaction this grant by the national award would set in and, therefore, we must be very cautious before taking a leap in that direction. It is the accepted view that post retirement benefits are to be seen on the principle that the employee who has worked for quite a substantial period of time devoting valuable part of his life in service should be able to live with that standard and ease and with a sense of free allow from anxiety after he retires. The scales of pay and the wage packet, determined by this award for the Reserve Bank of India look to be quite good. All along in the arguments, it was harped that the Reserve Bank should be able to keep at position even in relation to commercial banks and that has been done. In other words, we have the employing unit giving something which many others, inclusive of government, are not giving to their employees. No doubt, prices are spiralling, no doubt they cause erosion. To the extent possible and within the rules applicable under industrial law, the matters have been discussed. Even assuming that there is scope for doing something more on that line, the matter could be looked at in item No. 34. But when it is the topic of granting post retirement benefit, we must move slowly. The moment such a scheme is introduced in the Reserve Bank, I am afraid, there would be an incessant demand on behalf of the commercial banks, which would be followed by other industries also. Present economic situation, in general, in my opinion, does not permit of a third retirement benefit although employees in India are still not getting a living wage.

38.14 Even a glance at the Report of the Study Group would show that their proposal, now pending with the Government of India, visualises slicing away some benefit. The pension sought to be given is not the usual 50 per cent of the last pay draw. It is in a truncated form. The Scheme visualises a life time basic pension of 25 per cent of the last pay or a fixed period pension, possibly monthly, guaranteed for a fixed period of 15 years after retirement without the benefit of a family pension scheme.

38.15 It is only in the State Bank of India that we come across 3 retirement benefits. But, as the Annexure to the Study Group Report would show in fact State Bank of India provides 2 retirement benefits, the Provident Fund and the Pension. The benefits of gratuity is available to such of the

employees who are covered by the Payment of Gratuity Act, 1972. Because of the statutory effect of the Gratuity Act, workmen employees coming under the Act get entitled to the 3rd retirement benefit. It is not a general rule. This does not appear to be a happy situation. It was mentioned to me that the State Bank of India has approached the Government to exclude it from the operation of the Payment of Gratuity Act. If that is so, there would be only 2 retirement benefit. Having looked into the pros and cons of the matter, I do not feel convinced to start a third retirement benefit by the award. The matter can certainly be reviewed at a suitable time.

CHAPTER XXXIX

Item No. 34.—Any other matter connected with, or arising out of the foregoing matters.

39.1 Some demands made by different Unions will have to be considered under this item. After the Part-I Award was declared parties were given opportunity to put forward further statements. The Reserve Bank of India have not pressed for any particular claim under this item. However, they are opposing every claim made by others.

39.2 The Association has also not made out any particular claim under this item. The Co-ordination Committee while filing their statement on 11th January, 1980 has asked for 20 per cent bonus per year to an employee and City Compensatory Allowance. As regards the first, it is said that the profits of the Reserve Bank of India including Commercial Banks profits are huge and as such 20 per cent bonus should be paid. So far as City Compensatory Allowance is concerned, it is said that most of the Reserve Bank offices are situated in State capitals, and in view of the cost of living at such places City Compensatory Allowance at the rate of 10 per cent of pay with a minimum of Rs. 100 should be granted. It is pointed out that all other Bank employees are paid City Compensatory Allowance and Class IV employees of the Reserve Bank of India are also getting that allowance.

39.3 On behalf of the Scheduled Castes/Scheduled Tribes Federation, what is pressed under item No. 34 is the implementation of Government of India G.Rs. and O.Ms. in respect of the concession and facilities given to the Scheduled Castes/Scheduled Tribes employees, the recruitment of undergraduates in the common cadre of Coin-Note Examiners to be resumed and that security deposit of Rs. 500/- payable by the employees at the time of recruitment should not be insisted upon in lump sum from Schedule Castes/Scheduled Tribes candidates. It is said that they should be asked to pay the deposit by instalments.

39.4 The Organisation filed a supplementary statement claiming City Compensatory Allowance. According to the Organisation, all India cost of living index does not reflect the actual cost of living in big cities like State capitals and metropolis. The cost of living in these places is really much higher, but the index is prepared by taking an average of all the places. Hence, the need of City Compensatory Allowance is felt by both the Commercial Banks and the Reserve Bank of India. So far as the Reserve Bank of India is concerned, it is said that its branches are at big places alone. It is further said that employees of the Commercial Banks and the employees of the Reserve Bank of India including Class IV servants as well as officers are getting City Compensatory Allowance, only Class III employees of Reserve Bank of India are denied the City Compensatory Allowance. In this connection, it is said that at the time of determining the justness and fairness of the settlement the terms arrived at between the parties alone were looked into, City Compensatory Allowance not having been discussed at the time of settlement was not a subject of discussion at that time, and therefore it was not included in Award Part-I. That should therefore be no reason to bar the discussion now and to give the appropriate relief. It is then alone that the employees would be nearer a fair wage. The Reserve Bank of India which is a model Institution should see that City Compensatory Allowance is not denied. In this connection, reliance is placed on Staff Regulations, 1948 wherein item No. 52 City Compensatory Allowance is contemplated. It is said that not only accommodation but food items are also costly in big cities and there is no reason to deny City Compensatory Allowance only to the Class III employees of the Reserve Bank. They claim the allowance at 10 per cent of the salary with a minimum of Rs. 75.

39.5 The Cash Department Staff Union ask for bonus and in their statement dated 21st July, 1981, claim City Compensatory Allowance to all Class III employees since it is paid to Class I as well as Class IV employees. The Karmachari Federation reiterates the demand for City Compensatory Allowance.

39.6 On behalf of the Ex-servicemen under item No. 34, it is said that the past military service of the Ex-servicemen must be taken for advance increments and seniority in Bank services. Counting past service and giving seniority asked for by the Ex-servicemen has been discussed at the time of Part-I Award and the same cannot be granted for the reasons given. For the same reasons the point made out by the Scheduled Castes/Scheduled Tribes for recruitment of undergraduates cannot be considered. They are asking for instalments to pay security deposit of Rs. 500. It is a special case which has to be considered for special reasons. That would be outside the scope of this Reference, but it appears that the case certainly be considered when the present trend is to give all possible help to indigent person. I leave it to the Bank to pass proper orders in that connection, if found suitable.

39.7 As regards the implementation of Government of India G.Rs. and O.Ms. it has been considered under Part-I Award. They do not apply ipso facto. But the Bank has issued circulars whenever certain concessions though in modified form were given Mr. Dudhia for the Scheduled Castes/Scheduled Tribes Federation however desires that such of the circulars which are governing the employees of the Reserve Bank of India and which are referred by the Bank itself should be embodied in this Award. The point appears to be that once these circulars are made a part of the Award it would be easier to take action in case of breach of them. Apart from the fact that doing so would amount to embodying something which is in the nature of special treatment which is outside the scope of this Reference, in case the circulars are to be modified in favour of the Scheduled Castes/Scheduled Tribes the process would be dilatory. The basic assumption that the Bank is not very sincere or serious in implementing the circulars cannot be appreciated. If such an impression is created among the Scheduled Castes/Scheduled Tribes persons it is for the Bank to remove it. I leave the matter to the good sense of the Bank.

39.8 As far as the claim of bonus is concerned, the item is of independent importance. It will not be a matter connected with any items. As in Government Offices, no bonus is given in Reserve Bank of India. In fact while determining their pay scales even by the earlier Tribunals the fact of not getting bonus was considered. No bonus therefore can be granted to Reserve Bank of India employees.

39.9 Coming to City Compensatory Allowance, in Chapter VI of Part-I Award while discussing the jurisdiction of the Tribunal, I have looked into the implications of Section 10(4) of the Industrial Disputes Act, matters incidental as viewed by that sub-section should be matters which are subordinates and subsidiary to the principal matter. Matters which require independent consideration or treatment or have their own importance are not incidental matters. Item No. 34 should not cover matters which are incidental to some item. Item No. 34 contemplates not a different topic or a different subject, but the subject which is connected with or which has its origin out of the foregoing matters. Upon this test, I feel that the claim for City Compensatory Allowance can be said to be arising out of the wage structure. Any wage structure includes, not only salary or the important counterpart of salary viz. Dearness Allowance but also other allowances. For the purpose of viewing whether the Tribunal has jurisdiction to consider it under item No. 34 I think it should be appreciated that it arises out of the foregoing matters viz. matters relating to the wage structure.

39.10 Reserve Bank of India is opposed to the prayer for grant of City Compensatory Allowance. According to them, the Government of India while making the reference was meticulous in mentioning different items of allowance as would be seen from item 2 and 4 to 10 and in as much as City Compensatory Allowance is not one of the items, it can be said that the Government of India did not want the Tri-

bunal to decide it. It is also said that the Reference is based on charters of demands and neither the Association nor the Organisation had asked for any City Compensatory Allowance. Further, it is said that the pay packet of a Class III employee of the Reserve Bank is much larger than the pay packet of corresponding Class III employee in Commercial Banks. There should be a comparison with the total pay packet and not with its components so that such comparison alone would keep us within the principle of fixation of wages industrialwise. Because the total pay packet of a Class III employee of the Reserve Bank compares well with the pay packet of a Class III employee of Commercial Banks, there is no need to grant any further allowance in the nature of City Compensatory Allowance.

39.11 In this connection, it is pointed out that at the time of Desai Award 10 per cent local pay comparable to the present claim of City Compensatory Allowance was demanded. The Desai Tribunal while dealing with that item introduced the concept of higher pay centres and lower pay centres, awarding higher scale of pay in respect of higher pay centres and lower pay in respect of lower pay centres. At the time of Aiyar Award the distinction between the higher pay centres and lower pay centres was abolished. The learned Arbitrator relied upon the Middle-class Survey of 1958-59 which showed that per family expenditure in the so called other than higher pay centres had also gone up and in some cases it was more than in the higher pay centres. In the Aiyar Award, however, distinction between higher rent centres and lower rent centres was made while granting House Rent Allowance. According to the Reserve Bank of India, while fixing the quantum of House Rent Allowance in respect of higher rent centres and lower rent centres City Compensatory Allowance was included in it.

39.12 The contentions of the Bank therefore is two-fold. First that the Tribunal should not consider granting City Compensatory Allowance as there is no specific item, and secondly on merits the element stands included in the House Rent Allowance. The first attack can not be very much appreciated. Since the time of Aiyar Award which was given in the year 1968 the pay structure of the Reserve Bank of India is viewed by the Unions under the pattern and the items listed therein. That was so at the time of Bipartite Settlement and that was so at the time of the Settlement considered in Part-I Award. It is understandable therefore that the charters of demands were drafted on those very lines, and hence no specific mention of City Compensatory Allowance is made in those charters of demands. When there was no such mention, its absence as an independent item in the terms of Reference when those terms were drafted by the Government of India could also be appreciated. The structure of different allowances and particularly Dearness Allowance as claimed by the Organisation is different, as would be seen from their statement of claim. If the reference was dealt with in the terms of those demands, perhaps the Organisation also would not have felt the need for asking for City Compensatory Allowance. But in between was the settlement entered into by the Association and the Bank and the entire concentration at the time of Part-I Award was to find out whether the terms embodied in the settlement under the items as shown in the settlement were fit to be adopted for award. Points regarding external or internal relativity on which observations are made in the earlier Part I had that approach and were dealt with from that point of view. Wage structure was looked into to find out whether the compensation results in showing the negative aspect whether for that reason this settlement should be termed as not just. In fact positive aspect showing how far it is beneficial could be looked into now and that has to be done on the basis of claims in the pleadings before the Tribunal regarding City Compensatory Allowance. Purpose of City Compensatory Allowance or its inherent assessment what that time relegated to the background. Now under item No. 34 of the present reference a fair trial to it on merits cannot be denied.

39.13 The Organisation and such other Unions supporting the Organisation for grant of City Compensatory Allowance are broadly interested in putting forward two points. In the first place, it is said that City Compensatory Allowance is granted to the employees of the Commercial Banks and therefore speaking industry-wise to have parity in the industry it must be granted to the employees of the Reserve Bank of India. In the second place it is said that when in

the Reserve Bank of India itself Class IV staff is getting the City Compensatory Allowance and when the officers are also getting the Local Allowance on the same considerations, there should be no reason why on the same considerations the Reserve Bank of India Class III employees should not get City Compensatory Allowance. Although it is stated by the Reserve Bank of India that the element of City Compensatory Allowance is included in the House Rent Allowance and it is therefore that the Ayar Award did not in terms provide anything in the nature of City Compensatory Allowance, the Reserve Bank of India have modified that set up when from 1969 City Compensatory Allowance was introduced for their Class IV servants and therefore considerations mentioned in the Ayar award should be no bar now for granting the City Compensatory Allowance.

39.14 In order to appreciate the position between the Reserve Bank of India and the Commercial Banks, a comparison can be made between the House Rent Allowance granted to a Class III RBI employee and the House Rent Allowance as well as the City Compensatory Allowance together granted to a Class III employee in the Commercial Banks. House Rent Allowance to the Reserve Bank employees will be 12-1/2 per cent or Rs. 150 per month at the maximum at higher rent centres and 7-1/2 per cent with a maximum of Rs. 90 at lower rent centres. So far as the Commercial Banks employees are concerned, the House Rent Allowance is 7-1/2 per cent or a maximum of Rs. 85 per month at special places and 7 per cent or a maximum of Rs. 78 per month at some other special places or 6 per cent or a maximum of Rs. 68 per month at places with a population of 2 lakhs and over, and 4 per cent or a maximum of Rs. 48 per month at places with a population of 10,000 and over. The City Compensatory Allowance is 9 per cent on basic pay and maximum Rs. 90 per month to workmen other than those belonging to the subordinate cadre. In terms of higher rent centres, therefore, rough comparison shows that Reserve Bank of India employees get highest Rs. 150 per month as House Rent Allowance while in Commercial Banks the employees get Rs. 90 per month as City Compensatory Allowance plus Rs. 85 as House Rent Allowance. This leaves an edge over the Reserve Bank of India employees in the employees of the Commercial Banks.

39.15 Having seen the industrywise comparison, it is worthwhile making a comparison with other classes in the Reserve Bank of India itself. That would show the changes in the internal relativity. I am aware that while looking to the general pay structure and particularly the concept of the merger of 90 per cent D.A. in basic salary together with the further entitlement of D.A. I have looked into the charts given by different parties. I generally assessed the internal relativity for the entire pay packet and the pay structure. But concentrated attention on the position of the City Compensatory Allowance alone, one of the components of the pay structure, was not given. That is being done now. On behalf of the Organisation a chart was given at the time of arguments. This chart which is Annexure 'D' shows the position of Class I officers, Class III employees and Class IV employees in relation to House Rent Allowance together with either the Local Allowance or the City Compensatory Allowance which is granted for compensating the cost of living in addition to what is considered under the Dearness Allowance. Officers get some Dearness Allowance Class IV servants get Dearness Allowance 100 per cent and even then both are permitted to receive City Compensatory Allowance. It need not therefore be said that when Dearness Allowance is granted on considerations of cost of living, City Compensatory Allowance should not be granted.

39.16 Now the chart shows that in the year 1965-66 so far as Class I Officers are concerned over the pay they had an increase of 26.5 per cent in the shape of House Rent Allowance and Local Allowance. Class III employees had an increase of 15.63 per cent in salary by reason of House Rent Allowance and City Compensatory Allowance which was then granted. Class IV employees had an increase of 16.93 per cent in salary by reason of House Rent Allowance alone. No City Compensatory Allowance was granted to them. In the year 1969 this percentage worked out to 33.32, 14.29 and 31.11 in respect of Class I Officers, Class III employees

and Class IV employees respectively. In other words there was an upward change with regard to Officers, and there was a substantial increase in percentage of Class IV employees because City Compensatory Allowance was introduced for the first time in 1969. Percentage wise the position of Class III employees had deteriorated because it was reduced from 15.63 per cent to 14.29 per cent so that whereas there was an increase in the case of Officers and big increase in the case of Class IV servants, Class III had to suffer a decrease. In 1979 the Officers started getting Family Allowance therefore the percentage increase in their case happens to be 30 per cent of the salary by reason of House Rent Allowance and Local Allowance and about 8-1/2 per cent more by reason of Family Allowance. Class IV employees are having an increase of 28.81 per cent whereas Class III employees are almost at the same level getting 15 per cent increase in salary. In terms of internal relativity this does not look fair. Even if we look independently in the case of Officers there is a gradual rise progressively. In the case of Class IV employees there is a big rise because of the introduction of City Compensatory Allowance. In the case of Class III employees they are almost without any rise. If the element of cost of living is to be taken into consideration on equitable basis there is no reason why the Class III employees alone should remain at the place where they were or why there should be no further increase in the percentage addition to their salary by reason of allowances, such as House Rent Allowance and City Compensatory Allowance.

39.17 It is interesting to note that by reason of such addition the percentage increase in the case of Officers in the Commercial Banks is 35 per cent whereas with the Reserve Bank of India it is over 38 1/2 per cent. In the case of Class IV employees such an increase with the Commercial Banks is 15.7 per cent whereas in the Reserve Bank it is 28.8 per cent. This illustrates the plus position either of Officer Class I or of employees in Class IV, of the Reserve Bank of India compared with the Commercial Banks. Now if such comparison is made in respect of Class III staff in the Commercial Banks the increase is 16.7 per cent whereas in the Reserve Bank of India it is 15 per cent. That is why I said that there is an edge in the case of Commercial Banks in respect of Class III employees over the Reserve Bank of India employees. A plus position is not maintained in respect of Class III employees. It is for this reason that I am inclined to grant City Compensatory Allowance to Class III employees in Reserve Bank of India.

39.18 What is demanded in this connection is 10 per cent of pay and towards the minimum, one Union has asked for Rs. 75 and another has asked for Rs. 100. Because of the pay structure considered in Part I Award, I feel, though the need for City Compensatory Allowance is felt by me on the analysis made above I may have to remain within limits of not losing the economic balance or not involving the Bank in larger financial burden. Incidentally, the Bank can be said to have persuaded itself for some more financial burden when the Bank had agreed with proposal of the Study Group which was to introduce the pension. That burden will not now fall in the Bank considering all the angles. I think that the City Compensatory Allowance should be 5 per cent of pay and minimum limit should be Rs. 50.

39.19 To sum up therefore the case of City Compensatory Allowance for Class III employees is considered by me under Item No. 34 and I grant towards it Rs. 50 or 5 per cent of the pay whichever is more.

Sd/-

C. T. DIGHE, Presiding Officer,
National Industrial Tribunal,
Bombay.

Item No. 8—Extra wages for overtime

ANNEXURE 'A'

Statement indicating the total number of Class III staff placed on staggered duty and extent of staggering

Sr. No.	Centre	Departments	Strength of Deptt.	Staff placed on staggering duty	Extent of staggering and staff under each period of staggering		Remarks	
					Period in hours	Staff	Duties performed	No. of staff
1	2	3	4	5	6	7	8	9
1. Ahmedabad		D.A.D.	49	3	1	3	Day book Clean Cash Book	2 1
2. Bangalore		P.A.D.	39	8	1 (On week days) 1 On Saturdays)	8	Transfer Scroll Clearing Govt. Receipts Comptist Telex Operator	1 3 2 1 1
3. Bombay		D.A.D. and DAD P A.D. PAD	105 105	24 7	1 1 1	7 13 1 10	D.A.D. Ledger Keepers Day Book Statement Transfer Scroll Cash Book D.D. Schedule Telex Operator Comptist P.A.D. Inward Clearing	 6 6 6 1 1 1 2 1 7
4. Byculla		DAD & PAD	32	3	1	3	Clearing Cash Book Comptist	1 1 1
5. Calcutta		Staff	—	1	1	1	Telex Operator	1
6. Jaipur		Establishment	—	1	1	1	Pharmacist	1
7. Hyderabad		D.A.D.	22	4	1	2	Clean Cash Current Account Day Book Transfer Scroll	1 1 1 1
8. Kanpur		P.A.D. D.A.D.	24 16	3 5	1 1	2 5	P.A.D. Matching of paid instrument Abstract Despatch of paid instruments D.A.D. Current Account Day Book Clean Cash Current Account Statements Clearing	 1 1 1 1 1 1 1 1
9. Madras		Manager's Section D.A.D. P.A.D. Cash	48 57 53 641	1 3 2 3	1 1 2	8 1	Manager's Section Telex Operator D.A.D. Clean Cash Transfer Scroll Day Book P.A.D. State Receipt P&T Receipt Cash Treasurer's Section Box Balance	 1 1 1 1 1 1 2 1

1	2	3	4	5	6	7	8	9
10. New Delhi	P.A.D.	65	5	1	2	P.A.D.		
	D.A.D.	58	10	2	2	Comptists		2
	Cash	526	12	1	2	Payment Scroll		1
						Inward Clearing		1
						Clearing House		1
	Manager's Section	37	2	1½	23	D.A.D.		
						Current Accounts		5
						Day Books		2
						Miscellaneous		1
						Transfer Scroll		1
						Clean Cash		1
						Cash		
						Assistant to ATs		7
						Assistant to Dy. Tr.		1
						Assistant to Tr.		1
						Vault duties		3
						Manager's Section		
						Telex Operator		1
						Telephone Operator		1

ANNEXURE 'B'

JOINT CONSULTATION SCHEME

1. Joint Consultative Committee :

Joint Consultative Committees comprising of the representatives of the management and the staff should be constituted at two levels, viz. at the Central Office and at the local offices. Accordingly, a Central Consultative Committee at the Central Office and a Local Consultative Committee at each of the local offices should forthwith be constituted. Such Committees will also be constituted in future at local levels as and when new offices are opened.

2. Central Consultative Committee :

The Central Consultative Committee shall consist of the Chief Manager, the Personnel Manager, the Joint Chief Officer, the Deputy Chief Officer and the Assistant Chief Officer, Personnel Policy Department and two other officers on the official side and six representatives from the staff.

3. Local Consultative Committees :

A Local Consultative Committee shall consist of the Manager, the Personnel Officer (or the officer-in-charge of Administration) and not more than two officers on the official side and four representatives from the staff.

Explanation.—“the Manager” means the officer for the time being in charge of an office or branch.

4. Staff Representatives :

(i) The representative Association of the Class III employees at the Central level, recognised as such by the Bank (hereinafter referred to as “the Central Association”) should advise in advance the names of the staff representatives who would function on the Central Consultative Committee, who shall all be employees in Class III.

(ii) The representative Association of the Class III employees at the local Centre, recognised as such by the Bank, (hereinafter referred to as “the Local Association”) will similarly advise in advance the names of the staff representatives who would function on the Local Consultative Committee, who shall all be employees in Class III.

5. Nomination of official representatives :

Notwithstanding the provisions of paragraphs 2 and 3, the official representatives on the Central Consultative Committee shall be such persons as may be designated by “the Governor” (as defined in the Staff Regulation) and the official representatives on a Local Consultative Committee shall be such persons as may be designated by the Manager.

6. Meetings of Consultative Committees :

The Central Consultative Committee shall ordinarily meet once in every six months and the Local Consultative Committee once in every three months. Emergency meetings may, however, be called in exceptional circumstances at the request of the Central Association or the Local Association, as the case may be, or at the instance of the Bank.

7. Matters that can be discussed :

(a) Scales of pay and allowances, retirement benefits, leave etc. shall be outside the scope of a Consultative Committee.

(b) Discussions at the Central Consultative Committee shall be confined to the following subjects :

- (i) Implementation of agreed, settled or awarded terms of service and of other agreements.
- (ii) Programme for workers' education.
- (iii) Staff co-operatives—formulation of policies and general procedures.
- (iv) Promotion of thrift and savings.
- (v) Staff housing, health services and other welfare activities.
- (vi) Employees suggestion schemes.
- (vii) Suggestion in regard to improvement in work procedures.
- (viii) Formulation of policies and standards regarding working conditions and amenities in offices.
- (ix) Facilities for communication, in order to furnish information to the members of the staff.
- (x) Consideration of recommendations, proposals, suggestions and other references from a Local Consultative Committee.
- (xi) Implementation and review of decisions taken at the previous meetings.
- (xii) Any other matters of interest to the staff and/or the Bank, which are incidental to, or connected with the above.
- (xiii) Such other subjects as may be decided by agreement to be included at a meeting of the Central Consultative Committee.
- (xiv) Operational complaints raised either by the management or the Central Association.

(c) Discussions at a Local Consultative Committee shall be confined to the following subjects :

- (i) Implementation of grievance procedure.
- (ii) Conditions of work and amenities in offices.
- (iii) Implementation of programmes for workers' education.
- (iv) Co-operative Societies—formation, working and other connected matters.
- (v) Customer service.
- (vi) Facilities for communication in order to furnish information to the members of the staff in the local office.
- (vii) Implementation of decisions and conclusions reached at the Central Consultative Committee in matters concerning the local office.
- (viii) Review regarding implementation of decisions taken at the previous meetings.
- (ix) Any other matters of interest to the staff or the Bank and which are incidental to, or connected with the above.
- (x) Operational complaints raised either by the management or the Local Association.

8. Convening of meetings of Consultative Committees :

Meetings of the Central Consultative Committee will be convened by the Central Office of the Bank and of the Local Consultative Committee by the concerned local offices of the Bank. Notice of the meetings shall be given to the members of the Committee and a copy thereof forwarded to the Central Association or the Local Association, as the case may be. Except for an emergent meeting (in respect of which a shorter notice would be sufficient), the notice convening a meeting should ordinarily be given one month in advance of the date of the proposed meeting. Subjects which the staff representatives would want to have discussed at a meeting must be communicated to the Chief Manager or Manager, as the case may be, at least 15 days in advance. The agenda for the meeting shall be circulated to the members in advance. However, subjects regarding which adequate notice could not be given can also be discussed at the meetings with the approval of the Chairman of the Committee. The Chief Manager, who will be the Chairman shall preside at all meetings of the Central Consultative Committee. In his absence, another officer duly nominated by him shall preside. At all meetings of the Local Consultative Committees, the Manager or, if he is not available, another officer duly nominated by him, would preside.

9. Minutes of the Meetings :

Drafts of minutes of a meeting shall be finalised and signed at the same meeting. They should be sent to the Central Association or the Local Association, as the case may be, as soon as possible. The minutes shall be placed at the next or subsequent meeting of the Consultative Committee for confirmation. After confirmation, the minutes may be circulated by the Bank and/or the Central or Local Association, as the case may be, unless the circulation of the minutes is specifically asked to be withheld at the meeting or otherwise.

10. Discussions to be confidential :

The discussions at the Central Consultative Committee or a Local Consultative Committee shall be kept confidential both by the management representatives and the staff representatives and shall not be published. The recorded proceedings may, however, be circulated to the staff jointly by the management and the Central or Local Association, as the case may be.

11. Implementation of Decisions :

Agreed conclusions reached at the meetings should be implemented by the Management and the Central Association or the Local Association, as the case may be, in all earnestness and as expeditiously as possible. If the Committee desires that any conclusion reached at joint consultation meet-

ing should be implemented even before the actual confirmation of the minutes, such conclusions should be set out in writing at the meeting itself and signed by the members present. The implementation of such agreed conclusions should not be deferred till the actual confirmation of the minutes as a whole.

12. Failure to reach agreed conclusion :

If the Committee comes to the conclusion that on a matter there is no possibility of an agreement, it shall be open to the management or the staff to take any suitable further action in the matter. Till, however, the Committee comes to such a conclusion, no change in the then existing position in regard to the matter should be made by either the Bank or the staff.

13. General :

The machinery for joint consultation should supplement and not replace, the existing facilities available to employees to make oral or written representation to the management in the appropriate manner. Such representation should be disposed off through the normal administrative channel. If, however, the parties forming the Consultation Committees consider that the matter involved is of general interest and should better be discussed at the appropriate Consultative Committee, such matter may be reserved for discussion at the next meeting and included in the relevant agenda.

Annexure 'C'

Grievance Procedure for employees in Class III.

1. Nature of grievances covered by the Procedure :

The grievances to be covered by the Procedure shall be the following :

- (i) Complaints relating to unfair treatment on the part of any superior official.
- (ii) Complaints affecting one or more individual workers regarding wage payments, overtime, leave, work assignment, working conditions and rights and privileges of the employees under the prescribed terms and conditions of service.

2. Work Assignment and disciplinary action :

- (a) Work assignment under this procedure shall mean the assignment of duties to various categories of staff and shall not include allocation of duties to individual employees; and
- (b) disciplinary action taken in accordance with the terms and conditions governing the employees' service shall not constitute a grievance to be processed under this Procedure, unless such action is disputed on grounds of victimisation or patent perversity and the matter is, therefore, brought up before the Grievance Committee. However, if an employee elects to follow the process of appeal under the Staff Regulations, the matter cannot be processed under this Procedure.

3. Employees should first comply with order :

If an employee wishes to raise a grievance in respect of an order issued by a superior officer, the said order shall be first complied with before the employee concerned invokes the procedure laid down for redressal of grievances.

4. Termination of service and dismissal :

The Grievance Procedure shall not apply to cases of termination of services or dismissal.

5. Disposal of grievances at the immediate higher level-initial authority

(a) Initially, a complaint in respect of a grievance shall be made in writing by the aggrieved employee and submitted to the initial authority in respect of the department or section or branch in which the employee is working, directly or through the recognised association.

(b) The Initial Authority for this purpose will be deemed to be the Staff Officer Grade 'A' under whom the employee

is working. In the case of a collective grievance, the Initial Authority shall be nominated by the Manager.

(c) The Initial Authority should investigate into the matter, giving fair opportunity to the complainant to adduce evidence and establish his case, and give his decision in writing on the complaint within 7 working days of its receipt.

(d) When the complaint is against the Initial Authority, the grievance may be taken to the higher authority.

6. Appeal against the disposal of the Initial Authority

(a) If the Initial Authority does not give a decision within the prescribed time, or if the aggrieved employee is not satisfied with the decision of the Initial Authority, the employee shall have a right of appeal to an Appellate Authority.

(b) The Appellate Authority will be the Staff Officer Grade B or Grade C, as the case may be, under whose supervision the employee works. The appeal shall be preferred within 30 working days and the decision of the Appellate Authority shall be given within 14 working days of the receipt of the appeal. In the case of collective grievance, the Appellate Authority will be nominated by the Manager.

(c) When the complaint is against the Appellate Authority, the grievance may be taken to the higher authority.

7. Grievance Committee :

(a) If no decision is given by the Appellate Authority within the prescribed time or if the aggrieved employee is not satisfied with the decision of the Appellate Authority, the aggrieved employee may refer the complaint to the Grievance Committee constituted at each office or department of Central Office.

(b) Matters of minor nature shall not be considered by the Grievance Committee, unless the Grievance Committee, on a representation by the employee, decides that the matter is not of minor nature.

8. Disposal of matters by the Grievance Committee :

(a) The aggrieved employee shall address his grievance to the Chairman of the Committee, who shall arrange for the matter to be considered and disposed of by the Com-

mittee within thirty working days of the receipt of grievance.

(b) The decision of the Grievance Committee shall be communicated to the employee within seven days of its disposal by the Committee.

9. Constitution of the Grievance Committee :

The Grievance Committee at each office/department of Central Office shall consist of the following :

(i) Two representatives of the Bank nominated by the Manager,

(ii) Three representatives of the staff nominated by the recognised association, and

(iii) the Manager of the office/department of Central Office, who shall be the Chairman of the Committee.

10. Representation by Association :

In all proceedings under this Procedure, the employee concerned may appear himself or have his case represented by a representative of the recognised association. If, however, an employee states that he is not a member of the recognised association, he may appear himself or be represented by any other employee of the Bank provided that employee is from the same centre. In such a case, the Grievance Committee, as far as employee is concerned will consist of management representatives only.

11. Procedure not in supersession of existing rights :

This Procedure shall not be in supersession of the rights of an employee for redressal of grievances in terms of Regulation 48 of the Reserve Bank of India (Staff) Regulations, 1948.

12 Definitions :

(a) "Recognised Association" means the Association recognised by the Bank as the representative association of Class III employees at a particular centre.

(b) "Manager" means the officer in charge of an office or branch for the time being. It means with reference to the different departments of Central Office, the officer in charge of the department in which the employee is employed.

ANNEXURE 'D'

ITEM 34

Comparative statement showing the % of H.R.A. and Local Allowance in the case of Class I, the C.C.A. and H.R.A. in respect of Class IV and the relative position of Class III

As on 1-10-1965 OFFICERS (Class I)				As on 1-1-1966 Class III				As on 1-1-1966 CLASS IV			
Pay	H.R.A.	L.A.		Pay	H.R.A.	C.C.A.		Pay	H.R.A.	C.C.A.	
400	66	+40 26.5%	=106	192	30	+— 15.63%	=30	106	18	+— 16.98%	=18
As on 1-11-1969				As on 1-1-1970				As on 1-10-1969			
560	125	+56 32.32%	=181	210	30	+— 14.29%	=30	135	24	+18 31.11%	=42
As on 1-10-1979				As on 1-9-1978				As on 1-9-1978			
900	180	+90 30%	=270	400	60	+— 15%	=60	295	50	+35 28.81%	=85

(Family Allowance introduced first time for Officers)

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT
BOMBAY

Reference No. NIB-1 of 1979
Employers in relation to Reserve Bank of India
AND
Their Class III Workmen
AWARD PART-III

Appearances :—

For the Employers

Mr. G.B. Pat,
Sr. Advocate,
Supreme Court.
Mr. F.D. Damania,
Advocate, High Court
I/B M/s. Crawford
Bayley & Co.
Mrs. Mayura Padma-
nabhan,
Dy. Legal Adviser.
Mr. M.A. Batki,
Asstt. Legal Adviser.
Mr. K.A. Najmi,
Legal Officer.

For the All India Reserve Bank
Employees' Association.

Mr. Madan Phadnis,
Advocate.

For the All India Reserve Bank
Workers' Organisation.

Mr. Devidas Pat

For All India Reserve Bank
Karmachari Federation and All
India Reserve Bank Cash Depart-
ment Staff Union

Mr. C.L. Dudhia,
Advocate.

For Reserve Bank Ex-Servicemen
Employees' Welfare Association

Mr. C.L. Dudhia I/B
Mr. S.P. Palanivelu

For All India Reserve Bank
Employees' Co-ordination
Committee.

Mr. J.G. Gadkari,
Advocate.

For All India Reserve Bank
Scheduled Caste/Tribe Employees'
Federation.
Industry

Mr. C.L. Dudhia I/B
Mr. Y.H. Appa,
Advocate.
Banking

Bombay, dated the 4th day of December, 1981.

AWARD PART III
CHAPTER XL

INTRODUCTION TO AWARD, PART III

40.1 This part of the award should mainly deal with item No. 32—Mechanisation and Computerisation. Parties however have found it convenient to discuss other three items viz. Item No. 29, 30 and 31 along with Mechanisation and Computerisation. Item No. 29 is Wasteful and Restrictive Practices, item No. 30 is Work Allotment to employees in Exigencies and item No. 31 is Work Procedure and Work norms.

40.2 In respect of item No. 32, it will have to be noted that Mechanisation and Computerisation is not unknown to the Reserve Bank of India. Some machines are already used in some departments. Similarly, the Reserve Bank has installed one computer in its Garment House premises in 1979. This was in substitution of another computer installed in the year 1968. It is however, clear that even at the time of installation of the first computer as also now, the Association and the Organisation are opposed to computerisation. The Organisation is not totally opposed to mechanisation but they do not want full mechanisation. By and large, the objection is based on considerations of country's economy and the impact of introduction of computerisation and mechanisation on the whole collared employees in the Reserve Bank of India. The subject may have to be dealt in the next chapter along those lines.

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40.3 The other three items appear to have been put in the reference at the instance of the Reserve Bank of India. There seem to have been some trouble in the working of the Bank because of wasteful and restrictive practice alleged to be followed by some employees and that also involves the allotment of work to employees in certain exigencies. In fact, there has been differences of opinion between the Association and the Bank regarding certain norms to be introduced for some type of work in some departments. Long statements have been received on these 3 items. But the arguments were very short inasmuch as at the time of hearing, the Bank restricted itself to getting general guidelines on the subject rather than individual events or culling out a case or making out a case out of it. Chapter XLI will deal with Mechanisation and Computerisation proper whereas the other three items could be looked into in Chapter XLII followed by one more chapter relating to other matters, such as costs or date of effect of the award, etc.

CHAPTER XLII

Item No. 32—Mechanisation and Computerisation

Introductory

41.1 It has been observed that one computer is already working in the Reserve Bank of India at their Garment House premises in Bombay and also some machines are in use in various departments at different branches of the Reserve Bank of India. The item, as it appears in the reference, reads like a general item. Going by its literal meaning, everything relating to mechanisation and everything relating to computerisation would fall in that item. However, in Civil Appeals 2815, 2816, 2607 and 3150 of 1980, the Supreme Court had occasion to deal with the order of Reference in this case and the Supreme Court did not approve of giving natural meaning to the words used in the item. The Supreme Court observed that while dealing with the reference, it would be necessary to define the area of the dispute referred to, for adjudication. On interpretation of the order of Reference it is said "the order of Reference in this case however shows that it was not an apprehended dispute but an industrial dispute that exists between the employers in relation to the Reserve Bank of India and their Class III workmen in respect of the matters specified in the Schedule. If the subject is to be dealt in that line, we do not get any assistance from the charter of demands. Neither the Association nor the Organisation or any other union appearing before the Tribunal has any time spoken about computerisation. The Tribunal has therefore to go by the statements given at the time of hearing.

41.2 The Bank has given a long statement. The Organisation has also filed statement and the Association has given a fairly long statement along with a number of annexures. None of the other unions have filed any statement but in general they are supporting the opposition. It has to be remembered however that the Association is totally opposed to introducing any machines in any department or use of any type of computer anywhere in the Reserve Bank of India. Whereas according to the Organisation, some simple machines can be used.

41.3 Statement of the Bank

The Bank filed its supplementary statement of claim in respect of item No. 32 on 27th July 1981. That statement can be summarised as follows :

The Reserve Bank of India has asked for mechanisation and computerisation to enable it to handle large volume of data that are received, to process and store them so that the data are readily available for reference. It is said that the Bank being the Central Bank of the country has to advise the Government on economic matters and has also to furnish data to Government and international bodies. On the basis of the data collected by the Reserve Bank, decisions affecting the economy of the country are taken by the Government. The Reserve Bank also has several statutory functions. It administers the Foreign Exchange Regulation Act, 1973 and is the custodian of the foreign exchange reserves of the country. In the discharge of its statutory duties of administering exchange control, data relating to exports and imports have to be processed and evaluated. This has to be done expeditiously, as if the data become out

of date, it will not be of much use. The Reserve Bank also administers the Banking Regulation Act, 1949 and the Reserve Bank of India Act, 1934. It controls the activities of banks and non-banking companies. The Reserve Bank frames from time to time policies for credit control and for regulation of banking on the basis of data collected by it. It is imperative that the data should be collected expeditiously and processed. The Reserve Bank also administers the Public Debt Act, 1944. This involves management of government loans. The Reserve Bank has to ensure that interest warrants are sent at regular intervals, repayment of loans is made on due dates, etc. The Reserve Bank has obligation to the International Monetary Fund to provide detailed balance of payments data as early as possible. Apart from the implications of these obligations, the Fund's assessment of needs of the country and the developing world are based on whatever data have been reported to them by national authorities. In such a situation the older the data available to the Fund, the more difficult it becomes for the Fund's appreciation of the needs of the country and the international support that should properly be coming in time of need might not be forthcoming in required measure or might be available after a costly delay. Further, it is necessary for a country to closely monitor its balance of payments position. The more outdated the payments data available, the greater is the ability of the country to take possible corrective action in time; outdated information could be expensive in terms of the level of development and maintenance of well being of the country. In the context of arrears that have already been piled up, we have now reached the stage where only mechanical processing of data can provide the measure of relief.

41.4 The Bank contends that the volume of work handled in some areas had assumed such proportions that it cannot be handled manually and the Bank has no alternative but to go in for mechanisation and computerisation in a planned way. According to the Bank mechanisation and computerisation would result in—

- (i) proper discharge of obligations to Government banks, public, IMF and other similar organisations.
- (ii) better customer service,
- (iii) better monitoring and control,
- (iv) enabling use of in regional planning and other studies as also in the flow of funds analysis, the vast magnitude of data generated in the course of operations in the Bank which remain at present unutilised,
- (v) improved internal house-keeping,
- (vi) increased efficiency of individuals and effective utilisation of staff, avoiding monotony and drudgery of certain types of which are repetitive in nature giving better job satisfaction and greater pride in work to all categories of the Bank employees, particularly in the context of the rising academic standards and skills of staff who are being recruited now.

41.5 The Bank has given some specific areas and items of work which can be handled with help of machines and computers in the main supplemental statement of claim as also in Annexure II to the statement of claim. As per Annexure II to the statement of claim, the Bank proposes to use computers/machines in the following departments and for the purposes stated there-against :

Department	Nature of work
2. Public Accounts Department	(a) Receipting Cash Challans, (b) Writing of scrolls/statements, (c) Sorting and listing of inward/outward clearing cheques.
3. Public Debt office	Preparation of interest warrants
4. Issue Department	(a) Counting of fresh notes/coins. (b) Examination, verification and destruction of soiled notes. (c) Personal ledger accounts of chests, notes and coins.
5. Accounts section	Reconciliation of inter-office transactions
6. Currency section	(a) Analysis of data for formulation of schemes, etc. for the disposal of notes under modified procedure. (b) Results of detailed examination of all the chests/remittances/bank tenders.
7. Establishment section	(a) Provident Fund accounts. (b) Payment of salary, maintenance of housing loan ledgers, etc.
8. Foreign section	(a) Analysis of investments made. (b) Research in making forecasts.
9. Central Accounts section	Completion and reconciliation of transactions and finalising the accounts.
10. Department of Admin. & Personnel Policy Dept.	(a) Skills inventory system for the officers. (b) EDP for Personnel Administration. (c) Manpower Planning system. (d) Management information system.
11. Department of Banking Operations & Development	Data processing of statistical/statutory returns received periodically.
12. Industrial Finance Department	(a) Preparation of industry-wise state-wise classification in respect of various types of credit institutions in respect of outstanding guarantees, claims paid, etc. (b) Analysis of accounts in default, state-wise/industry-wise for the purpose of preparing reports for local board.
13. Reserve Bank of India Services Board and Recruitment Sections of offices	Scrutiny of applications and tabulation of results of the various competitive examinations, etc.
14. Department of Non-Banking Companies	Processing of the statistical data of the annual surveys of deposits with the non-banking corporate sector from the statutory returns submitted by financial companies and copies of the returns received from the non-financial companies.

Department	Nature of Work
1. Deposit Accounts Department	(a) Posting of ledgers (b) posting of Day book (c) posting of statement (d) Balancing of ledgers

Department	Nature of work
15. Exchange Control Department	(a) Processing of GR etc. forms. (b) Data processing of R returns and other statements received from authorised dealers, airlines/shipping companies, etc
16. Premises Dept.	Structural design calculation and PERT programmes.
17. Economic Dept.	(a) Processing and tabulation of data relating to balance of payments, banking statistics. (b) Preparation of bank-wise and state-wise lists of defaulting offices of banks in connection with BSR returns. (c) Processing of data collected under the census of commercial banks advances classified according to securities. (d) Building up of files on month and annual data on different items of RBI balance sheet and similar other data for forecasting and projection of monetary variables by the Monetary/Banking Divisions.

41.6 The list of machines and the areas where they can be used have been given in Annexure V to the supplementary statement of claim. The machines listed are Gestetner Electronic Stencil Cutter, Cash Register Machines, Ledger Posting Machine, Sorting-cum-listing machine and Kardveyar. The machines are to be used mainly in the Public Accounts Department, Deposit Accounts Department and the Public Debt Offices. In the main supplementary statement the Reserve Bank has also asked for mechanically operated lifts for stacking note boxes/coin bags, machines to count and examine notes and mechanically controlled system of conveyer belt for movement of note cases/note packets in a cycle from vaults to Sections/counters.

41.7 It is the Bank's case that on account of the implementation of the successive 5 year plans by the Government of India there has been increased economic activities all round and consequently there has been manifold increase in the work/activities with which the Bank is directly concerned. According to the Bank over a period of 10 years between 1969-70 and 1979-80 the value of notes in circulation has gone up from Rs. 3799 crores to Rs. 11,777 crores, the number of bank offices have increased from 10,131 to 32,419, the bank deposits have increased from Rs. 5028 to Rs. 33,283 crores, Bank credit has increased from Rs. 3,971 crores to Rs. 22,053 crores. The value of the country's export has also gone up by Rs. 1,535 crores in 1970-71 to Rs. 5,375 crores in 1977-78 and the increase in the value of the exports is also reflected in number of exporters who were 31,000 in 1970-71 are 81,000 in 1977-78 and the number of export forms received has gone up from 13,60,000 in 1971 to over 22 lakhs in 1978. It is the Bank's case that the aforesaid increased economic activities have generated considerably increased statistical data to be handled by the Bank besides expansion of the Bank's activities and responsibilities. The Bank is facing the lack of up-to-date information and it has not been possible to effectively process the mass of statistical data manually even after expanding the concerned departments and augmenting the staff. This inhibits the Bank's capacity to evolve proper monetary policies to advise the Government of India on important economic matters and to deal with International Monetary Fund and other authorities. It is the Bank's case that the balance of payment statistics which is a very material data for obtaining credit from the International Monetary Fund and the International Bank for Reconstruction and Development (World Bank) is now available after a backlog of 2 years. According to the Bank it should have the latest balance of payment data for making

proper use of the same for the purpose of furnishing it to the International Monetary Fund and the World Bank.

41.8 The Bank has submitted that it should have a right to introduce mechanisation and computerisation in any of the departments of the Bank. The Bank has assured that there will be no retrenchment of jobs in the Bank and the displacement of staff in any particular branch or office where computerisation is introduced will be kept at the minimum possible level.

41.9 Statement of the Association

On behalf of the Association, a statement in the nature of rejoinder was filed, which in brief, runs as follows :

The Association in its statement of claim objects to mechanisation and computerisation in the Bank. According to the Association mechanisation and computerisation is no solution to the problems faced by the Bank as India is at present faced with growing unemployment and it cannot afford the luxury of introduction of sophisticated machinery. According to the Association the Bank is not handicapped because of absence of computer or mechanisation but because of inadequate manpower in the Bank which is due to inefficient and unimaginative and very lukewarm policy adopted by the Bank in the matter of recruitment of employees. According to the Association recruitment of adequate staff to cope with the new changes, new dimensions of its tasks and its expected standard would solve the problem.

41.10 It is the case of the Association that in the year 1968 the Reserve Bank management brought electronic computer (Honeywell) for installing at Byculla, Bombay, with the ostensible and unilateral declaration of confining its uses only for research and statistical purposes. The machine was, due to the intensive movement launched by the employees including physical resistance at Bombay, shifted to Trombay, a security area. Faced with protest and agitation at all centres the Bank gave a unilateral assurance and declared that the departmental work hitherto attended to manually would not be passed on to the machine. According to the Association the management has totally ignored its own unilateral assurance of using the machine only for research work and have proceeded on the lines of handing over clerical work to the computer. But due to the vigil and organised resistance of the Association members the management had not succeeded much in transferring normal manual work from the various departments to the computer. The Association claims that two years back the old computer which was replaced by a more sophisticated one in the teeth of physical obstruction and repeated protest actions by the employees at the call of the Association and the Association has never given up its dispute over the earlier computer as also the present one and the introduction of the electronic data processing system in the work process.

41.11 According to the Association the Reserve Bank though statutorily not forming a direct part of the Government establishment is from a practical view point an essential and vital integer of Government's financial operational set up and it is therefore rational to infer that the Bank has to move in perfect consonance with the socio economic and labour policies of the Government of India and the accepted and established norms emanating therefrom. In view of the prepondering unemployment, paucity of capital, non-commensurate infrastructural facilities and necessity of balanced growth based on minimal techno economic dependence on exogenous sources, the socio economic policy of the Government views favourably upon labour intensive modes of operations and keeping in view the urgency to enhance productivity in general and generation of capital, the Government policy seems to have been not to invite much precipitable fits and jerks in the present level and the rate of acceleration in the process of creation of further employment potentials.

41.12 The Association states that they are aware of the fact that outstanding achievements in modern science and technology have increased the impact of man on his environment and these achievements have fundamentally affected the relationship between people forcing him to change his concept of the world and of himself and side by side it is aware of the questions of paramount importance concerning the employment level.

41.13 The Association claims that in the conventional modes of mechanical operation the function of the direct effect on

the object of labour is transferred to the working mechanism, but the man remains as the principal agent in the process retaining the functions of control, regulation and direct intervention in the production process significantly. But in a computerised process these functions are transferred to the mechanical devices. Computerisation not only minimises direct participation of man but seeks to eliminate it all together within a short time.

41.14 The Association has given quotations from several books regarding automation. According to the Association, unemployment is increasing because of the ill-effect of sophisticated mechanisation, automation and computerisation and the social economic policy making bodies and governmental set up have not pronounced any clear cut directions regarding the use of sophisticated machines.

41.15 The Association claims that automation or mechanisation in a sophisticated way eliminates human labour and creates more and more unemployment. Besides the limited financial resources of the State is being sought to be employed in unrequired goods like computer and allied devices. According to the Association the banking industry today has been one of the bigger constituting source of employment in the country and in view of the mounting unemployment the Reserve Bank should not go in for mechanisation and computerisation.

41.16 It is the Association's case that though the work volume has increased in the Reserve Bank by many folds, the Bank has been apathetic to increasing the work force commensurately and the Bank has thereby allowed the work volume to keep piled up. The Association feels that introduction of the proposed mechanisation and computerisation will squeeze the employment potential of the Bank and cause the major portion of the existing work force rendered surplus and force them to be retrenched ultimately. The Association feels that the proposals of the Bank are detrimental to the national interest in the matter of squeezing existing and future employment potential of Reserve Bank which is primarily a national institution.

41.17 The Association also submits that the Reserve Bank not being commercially profit oriented does not require computer and machines. According to the Association, comparison with other public sector organisations and commercial banks also does not hold good as those institutions do not have anything significantly common in their modes of operations and objectives with the Reserve Bank and besides most of them are having direct bearing with either production oriented revenue or revenue accrued from service charged for. According to the Association in Reserve Bank direct contact or service imparted to the members of the public are few and in most cases insignificant and hence there can be no comparison between other organisations and the Bank.

41.18 The Association has also contended that a significant portion of the data obtaining in Reserve Bank is not directly collected by the Reserve Bank but they are received in the Bank through other institutions and the difficulties inherent in those institutions make the frequency of the inflow of data irregular and relatively slow. The Association feels that a repetitive nature of the job alone does not satisfy the conditions of an efficient and profitable conversion to electronic data processing system. According to them in view of the highly infrequent nature in the process of collection of data and the constraints involved in the nature of its uses and applications, a non-harmonious frequency in the process of feeding data into the input device systems will affect the consequential time-lag causing thereby the waiting time to increase beyond cognizable and anticipated proportions and in view of all, the computer will have to run inefficiently frustrating the objectives of the proposed process of computerisation altogether and the anticipated economy.

41.19 In regard to computerisation of the operation of the Exchange Control Department, the Association contends that the Bank has by placing its submission in a general way proposed to computerise the whole job process of the department. According to them, computerisation cannot expedite and regularise inflow of the three kinds of export forms in a harmonious way owing to constraints lying out side the work process of the Reserve Bank. The process of collection of data remains beyond the control of the Bank. The Association contends that the present job volume of

the Exports Section in particular and Exchange Control Department in general can be managed manually if required level of staff strength is maintained by the Bank.

41.20 In regard to processing of returns received from other banks, collection of other data and processing of returns from non-banking financial companies, the Association submits that the Bank's proposals for computerisation and mechanisation are not tenable as these returns are presently being processed manually and timely, and the Bank's proposal will only cause labour redundancy and displacement of labour in all such departments.

41.21 The Association has also opposed the introduction of any of the machines listed by the Bank in its statement of claim in any area of operation for handling any of the items of work as has been proposed by the Bank. The Association has, therefore, prayed that the Bank should be directed to withdraw all proposals of computerisation and mechanisation.

41.22 Statement of Organisation

The statement given by the Organisation is comparatively short. But it has the efficacy of opposing introduction of automation and computerisation. Summary of the statement would be as follows :

The Organisation has objections to the Bank's demand for exclusive right to introduce computers/machines in any of its departments. They have dealt with the issue in regard to (i) the present national economic situation in general and (ii) the Reserve Bank of India in particular. Their submissions with reference to the national economic situation are that the computers are a labour-saving device of a giant magnitude and their existence does make a great difference to the employment situation. The claim of the employers that they will not make any retrenchment as a result of introduction of computers is only their style of putting bad things in palatable words. The more sober and honest argument for automation are about its necessity in infrastructure or key industries, where the multiplier effect on employment situation is visualised or its necessity for import substitution or export oriented industries on grounds of competitive position or in defence industries. A more recent justification for computerisation has come for statistical or mathematical work of such a nature where either the calculations cannot be done without the help of a computer or the processing of data takes such a time by even the best manual methods (including use of normal office equipment) that by the time the results of analysis are made available the time for utilisation is already passed away. What is needed in the Indian situation is first to provide for a full employment base and then make a graded ascent from one equilibrium to a higher and more productive equilibrium through a national economic strategy by giving an equitable treatment to different industries and thus raising the productivity and real income of the average man in India. The real concern for a higher technological application like automation can come under the second and subsequent stages, and therefore, there should be a moratorium on introduction of automation in Indian industries till this stage is reached. The Organisation feels that once the gates are opened for the computer in any department of civilian sector then it will force its way in other departments as well. According to them, the introduction of automation will be suicidal in the Indian industry at this stage of our economic growth and till such time as full employment is achieved.

41.23 In regard to the Reserve Bank in particular, it is the case of the Organisation that the assurance of the Reserve Bank that there will be no retrenchment is like expecting a harvest from a barren land. Sophisticated computers are tools to tackle two main problems namely (a) to solve very complicated mathematical problems generally faced by engineers, technicians and scientists working on plans and programmes relating to launching of satellites etc. and (b) to take over a very large volume of complicated data processing. The efforts of the Bank are obviously directed to tackle problems of processing voluminous data relating to certain types of banking transactions. But whatever may be the volume of transactions, there is no area of operation in the banking system in India today that cannot be attended to by the human labour. Proper planning, imagination and distribution of work should be able to tackle the problem

of voluminous transactions. The Organisation has submitted that it does not dispute increasing volume of work and other transactions in the Reserve Bank. Since the growth rate of population is higher, the growing population can take care of the increase in the banking transactions.

41.24 According to the Organisation basically, transactions of the Bank whether under clearing or foreign exchange are recorded, processed and maintained on the principle of double entry book keeping system and no computer can replace this or dispense with this system. Computers instead of reducing the paper work consumes more paper of better quality besides lengthy magnetic tapes. Break down of clearing house is not due to lack of computers but due to lack of required degree of efficiency of officers, improvement in organisation and methodology. If controlling officers are getting scant and incomplete information from the branches with delay then the computer will create more problems because the accuracy of inputs is directly responsible for ultimate output of a computer. The Organisation contends that though customer service is indeed more important in banking computers alone are not the answer. The Bank should take full advantage of the now available communication media such as telex, telegram and QMS to improve the customers service. Even in the area of reconciliation work, the computer cannot be the only solution. In one of the major nationalised banks, where the work got in arrears for 13 months with lakhs of unreconciled outstanding transactions, the work could be cleared in one month whereas in many other banks in spite of computer, the position could not be attained. Computers have to be fed by human labour and if there are errors in the voluminous data that is fed into the computer, it would result in steep increase in unreconciled outstanding transactions, thereby diluting the quality of the reconciliation. All clerical work is repetitive and if human labour feels tired of it, the remedy lies in periodic change of departments and not the use of computer.

41.25 The Organisation contends that in India today, we do not have required amount of software for the types of electronic computers sought to be introduced by the Bank and without appropriate software computers would create more mess. According to the Organisation the information given by the Bank in its statement of claim does not in any way justify the introduction of machines/computers in the Bank as they do not contain the information regarding the percentage of increase in arrears vis-a-vis the percentage of increase in staff strength. The Bank's intention is to replace all the manual banking work by machine and no area of operation will be left completely to the human labour.

41.26 The Organisation has, therefore, prayed that the demand of the Bank for exclusive right to introduce machines and computers in any of its department should be disallowed and that the use of the machines/computers should be confined to the types which are already in use in the Reserve Bank and there should be a total moratorium on introduction of mechanisation in the Reserve Bank.

General observations

41.27 Mechanisation and computerisation is really a vexed question. In one sense, the whole country has stake in it. It was represented that so far as the banking industry is concerned, there was no decisive pronouncement of any Tribunal barring what is stated in Chapter VI of the Bipartite Settlement of 1970 between the commercial banks and their employees. According to Chapter VI of that Settlement, some machines are allowed to be used by agreement in some departments on condition that no retrenchment is made and displacement of workers would be kept at the minimum level. As regard, computerisation, the Settlement is silent.

41.28 It is the case of the Bank that due to the varied and obligatory functions, the Bank has to perform, it is essential that these functions should be done promptly and the data also should be processed very expeditiously. According to the Bank, it depends upon the result which is obtained without loss of unnecessary time so that where such results are to be used in connection with the international economy they can be used promptly and for this purpose both mechanisation and computerisation is necessary. It is the case of the Bank that even after machines are introduced for more than it resulting in retrenchment many more persons

will be employed. In the first place it is said that certain persons will have to be trained to manoeuvre and operate the machines. At certain places, therefore, more employees would be required. It is the say of the Bank therefore, that instead of causing unemployment or reduction in the number of opportunities of employment, the opportunities would be more. However, no time the Bank has put forward any material showing the total strength of all the connected departments put together. In other words, although possibly in the Department of Statistics there would be an increase, likelihood of the decrease in workload in the connected departments, where the work proposed to be done by the machines is now done manually cannot be ruled out if the set up remains the same.

41.28 A Whereas, the Bank has thus painted a rosy picture, the Association's tone throughout is one of melancholy. According to the Association, as soon as the machines are allowed to be used, there will be a swift reduction in manpower and when a sort of automation is introduced with the help of the use of computer, a day will come when practically the entire white collared workmen would be redundant. He also no material has been put forward and it looks to be a very bleak and unreal picture. The Organisation has almost supplemented the stand of the Association. According to them, introduction of automation will be suicidal in the Indian industry. They want a moratorium on the use of computers except when it is to be used for scientific or research purposes.

41.29 Automation and Computer. It may appear however that the word 'automation' as it is widely applied in the field of productive industries like factories would not be applicable to the working of the Reserve Bank of India, where human skill is supplemented by machines. Machines are however required to be operation for factories will mean progressive use of different machinery separately working on a different type of product with or without linking it with any other machinery nearby. Computer may control the output of all machinery working by themselves after initial adjustment, if necessary. In technical terminology there is input of the data supplied and there is output. The output of one machine may be linked with that of another without human intervention after the initial order of working is given through a computer. This process is called programming. Automation involves not only doing repetitive functions automatically but spotting and correcting errors.

41.30 It would be relevant at this stage to note what is said in paragraphs 18.2, 18.3 and 18.4 of Report of the National Committee on Labour Chapter dealing with Rationalisation and Automation. Automation is the continuation of the process of mechanisation of production initiated by the industrial revolution. The term "automation" can be applied only to an industrial process which provides data from its own operation and feeds them back to its own controls which fully govern the production process. It is something which replaces direct manpower for mental or manual work or for both by self-regulating machines. The logic underlying this concept is that human work makes two fundamental contributions to the process of production : (i) supply of physical energy, and (ii) supply and processing of information. Either of these functions or both could be taken over by machines with the help of the current level of technology. Though rationalisation and automation could be regarded as two separate concepts, the effect they have on employment and labour is similar though not of the same magnitude. In a sense, automation could be considered a part of wider concept of rationalisation. It is possible to conceive of rationalisation taking place in an establishment without any significant resort to automation and capital intensive devices, but automation will necessarily be the higher reach of rationalisation. Both will depend upon the nature of technological development and the considerations which are consciously brought to bear upon practical policy in the matter of choice of techniques. Technological change is a historical inevitability and automation is the ultimate stage which Aristotle dreamt of when he said in his "Politics" : "There is only one condition in which we can imagine managers not needing subordinates and masters not needing slaves. This condition would be such that each instrument could do its own work at the word of command or by intelligent anticipation". In its present connotation, automation involves the application of automatic control mechanisms with an element

to self-regulation. In the process, the mechanism gets integrated with computers, mechanical brains and the like to assess with remarkable speed and accuracy market forces of supply and demand and adjustment to price mechanism, as well as the efficient running of an undertaking which will include inventory control and production or quality control. While automation cannot be equated with every technological change in current parlance, it could be treated as an aspect of technology which covers electronic computers, transfer devices and the like. What distinguishes automation from other kinds of technological change is that it permits the linking of many processes, either in the plant or office or both, into a continuous system. Automation would thus be imposing entirely new requirements and adjustments on different sectors of the economy.

41.31 The differences between automation and computerisation could very well be understood if we trace back the evolution of technological advance since the days of industrial revolution. Automation is the latest phase achieved in the technological evolution since the days of industrial revolution. The first phase in this evolutionary progress, was (heralded by the industrial revolution) the introduction of machines (as a replacement to manual operation) in the production process. This has resulted in considerable improvement in the speed of production process. The second phase coincided with the development of the science of 'Cybernetics'—a technology based on communications and control systems. This led to the development of automatic control and regulation systems, paving the way for control of machines by mechanical device adopted extensively in scientific and industrial spheres. The final phase is reached with the advent of the computer technology which has incorporated not only the earlier technological development in the field but has been well integrated with the latter to achieve a more sophisticated method of control, capable of recording and classifying the information and drawing of conclusions when required and effecting corrective measures in case of errors when detected.

41.32 Automation as observed in the "Report of the Work Study Team on Automation (Office Automation) in Maharashtra" consist of the following components or ingredients.

(a) Integration : Involving processes in which the final finished product is moved automatically untouched by human hands from one stage to another.

(b) Feed back Control : Electronic process by which any error or disorder of machine from planned performance is automatically corrected.

(c) Computer technology : Electronically operated machines capable of recording and classifying information and drawing of conclusions from such information.

Automation is said to be complete in a particular area or field when these three components/ingredients are observed to be operating simultaneously in an integrated fashion.

41.33 As may be judged from the above analysis, while it is feasible to carry out automation to its logical perfection in respect of industrial operations, it is not so in regard to the operation of the service organisations like Government, banking etc. This is obviously due to the fact that all the three components cannot be made operative (let alone simultaneously) in regard to the entire gamut of bank's operations since the latter would involve collecting the information and feeding it and the vetting of the processed information which are all manual operations.

41.34 What is a computer and what are its useful functions can be gathered from the observation of two learned authors.

Edward B. Shils, in his book "Automation and Industrial Relations" has at page 19, the following to say :

"Computers can be divided into two main types, digital and analog. The digital computer, as its name implies, operates with numbers, represented in digital form, a digit being one of a definite set of symbols and used to represent numbers. Thus, this method depends primarily upon a relationship between number and quantity. The digital computer is used in electronic data processing. The analog computer, on the other hand,

relies on an analogy of quantity; thus, it deals with physical quantities and not numbers. For example, a length of 12 inches in a digital computer might be represented by, say, a thousand units or pulses, in an analog computer, by a voltage of, say, 100 volts. Among computers have scientific, engineering, and industrial uses.

The computer has a machine language consisting of patterns of electrical signals used as code symbols for numbers and letters of the alphabet, just as in telegraphy the Morse code is used to transmit messages from place to place. Because the computer communicates by means of electrical signals, it is able to translate information from the patterns on punched cards of teleprinter tape, from impulses arising in modified typewriter keyboards, and from records made on magnetic tape. Also, by the use of teleprinter lines, it is able automatically to receive and transmit information over any desired distance.

The digital computer uses the basic arithmetic of addition and subtraction from which multiplication and division are derived. Because of the very high speed at which the computer works, these operations can be carried out at a tremendous pace.

Whereas the digital computer has recently stolen the limelight, the extended field of use of the analog machine must be mentioned, because it does fall within the fringe of automation. The uses of this kind of computer, besides that of machine tool control, include the solution of scientific and engineering problems, in which a combination of digital and analog machines can be used when necessary."

In the Chapter : Computers—Technical Considerations George R. Terry has the following to say :

"A computer is actually a group of mechanical and electronic devices connected into a unit or system to process data. Accurately designed, a computer is an electronic data processing system. Here is a unit that can take a bundle of facts, process the necessary string of operations, including any or all eight of the basic elements of data processing discussed in Chapter 4, turn out the answers with fabulous rapidity and without error, and proceed automatically to the next bundle of data and process them."

Basic Types of Computers

The basic types of computers are (1) digital (2) analog, and (3) hybrid digital-analog. Digital computers, or arithmetic machines as they are sometimes described, deal with actual numbers and their answer is a set of numbers or letters, which can be made as accurate as desired. These computers perform according to a set of instructions or a program, and if required, will perform hundreds and hundreds of repetitive calculations. A digital computer performs the work immediately after it is given a problem. It is a common type of machine for processing business data and represents by far the greatest number of computers in operation today.

An analog computer operates on the basis of using a formula or system to represent that which is being investigated or by duplicating mathematical behaviour. It can instantaneously solve a mathematical equation with ten variables. It is actually based on approximations, and both input and output of an analog computer are approximate positions on a continuous scale rather than absolute numbers. Results from the analog computer are never precisely accurate, but they are commonly within 1/20 or 1 per cent, which is entirely satisfactory for most applications. Calculating flows and pressures in pipelines and the position of a moving target are accomplished by an analog computer in only a split second, whereas for the same application the digital computer would calculate enormous quantities of data for an hour or so. Many analog computers are used for research and scientific investigation.

A hybrid digital-analog computer is a combination of the first two, digital and analog, utilised to obtain a computer capable of more work than the two can

accomplish working separately. This hybrid type is a more recent development. It has been used advantageously for outer space projects and satellite programmes. To date there are relatively few hybrid analog computers in use.

Three technical considerations :

To simplify this discussion of technical considerations, we can organise our thoughts around three fundamental subject areas. These are : (1) anatomy of a computer, (2) programming work for computer processing, and (3) coding work for computer processing. The first deals with the essential make up of a computer. The term, hardware, is used to identify the computer itself and its various accessories. The second includes preparing the work for computer handling. The third, or coding, deals with putting the work in a form or language that the computer can handle. Software is commonly used to identify all programming and coding required to utilise the computer, i.e. to utilise the hardware effectively."

Opposing view points

41.35 We have thus seen that when the trade unions are opposing any further extension of mechanisation or any further use of computer in the Reserve Bank of India, they are putting the matter on the basis of general economic conditions of India and the unemployment it is likely to generate in case resort to mechanisation and computerisation is taken to. In other words, basically, the opposition is not only for the introduction of mechanisation and computerisation in the Reserve Bank but the opposition relates to using them anywhere. *Prima facie*, it may appear to be a larger issue but it has been put forward in the name of national situation.

41.36 As against this, it is the case of the Reserve Bank that introducing mechanisation or resort to computerisation is not prohibited by any industrial law and it is for the management how to manage its business so that considerations of general unemployment do not crop in. It is however said that taking resort to these aids in Reserve Bank would in fact increase or create employment, firstly, so far as skilled workers are concerned and secondly, because of the work getting done with speed there would be overall increase in the commercial activities of the Bank which will create more opportunities for employment.

41.37 In this connection, Shri G. B. Pai, learned counsel for the Bank has submitted that the Reserve Bank has the right to computerise and mechanise the work so long as there is no retrenchment. According to him, under Section 9A of the Industrial Disputes Act 1947, a notice of change has to be given if an employer proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule and that item 10 of the Fourth Schedule to the Act relates to "Rationalisation, Standardisation or Improvement of Plant or technique which is likely to lead to retrenchment of workmen." He urged that the Industrial Disputes Act, therefore, recognises the right of an employer to rationalise even if it involves retrenchment, only condition being service of notice of change as required under Section 9A and following the procedure prescribed thereunder. In the present case Bank has assured that there will be no retrenchment. Hence the question of issuing notice under Section 9A also does not arise. Shri Pai has relied on two Supreme Court cases reported in 1970 II L.J. 429 *M/s. Parry and Co. Ltd. vs. P. C. Lal and others* and 1973 I L.J. 427 *Hindustan Lever Ltd. vs. Ram Mohan Roy*, already cited by me in Award Part II in different content. In *Parry and Co.* the Supreme Court has observed at page 438 as under :

"It is well establishment that it is within the managerial discretion of an employer to organise and arrange his business in the manner he considers best. So long as that is done bona fide, it is not competent to a Tribunal to question its propriety. If a Scheme for such reorganisation results in surplussage of employees no employer is expected to carry the burden of such economic deed weight and retrenchment has to be accepted as inevitable, however, unfortunate it is."

In the case reported in 1973 I L.J. 427 *Hindustan Lever Ltd. vs. Ram Mohan Roy and others*, and between the workmen and Hindustan Lever Ltd. the Supreme Court has observed at page 430 as under :

"The whole question whether this reorganisation falls under item 10 depends upon whether it was likely to lead to retrenchment of workmen. On this question, as already indicated, the two Tribunals have arrived at two different conclusions. But, as already indicated, it depended upon the evidence in each case. It is not disputed that the reorganisation has not resulted in any retrenchment. Moreover, during the course of rather prolonged negotiations between the parties the employer made it abundantly clear again and again that nobody would be retrenched. It was clearly made part of the scheme of reorganisation. Hindustan Lever Ltd. being a large organisation covering the whole of the country, there was no difficulty about giving effect to this reorganisation scheme without retrenching anybody. It was however, urged on behalf of the workers that there have been a number of voluntary induced retirements and that many posts were not filled after the holders of those posts had retired or left. We are of the opinion that the retrenchment contemplated under item 10 is retrenchment as defined in clause (oo) of Section 2 where it is defined as the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include voluntary retirement of the workman. The workers cannot, therefore, make a grievance of the voluntary retirement and non-filling of vacancies and try to bring it under item 10."

41.38 Shri Pai submitted that so long as there are no mala fides on the part of the employer, the employer has a right to rationalise the work process. He also submitted that the Reserve Bank has come before the Tribunal because there is a dispute between the management and the employees and this has been referred to the Tribunal. It is for the Tribunal to consider whether there is any mala fide intention on the part of the Bank and whether any question of retrenchment will follow.

41.39 In dealing with these arguments advanced as aforesaid, Shri Phadnis, the learned advocate for the Association has not disputed the right of the Bank to rationalise. Shri Phadnis's argument is that in the present reference it is for the Tribunal to decide whether it should by way of an award give the power to Reserve Bank to mechanise and computerise. The representative of the Organisation, Shri Devidas Pai has not advanced any argument in this regard.

41.40 In my opinion, in view of the observations of the Supreme Court in the case of *Parry and Co. and Hindustan Lever Ltd.* the employer has a right to rationalise provided there is no retrenchment. However, the point before me is not just the question of the right of the Reserve Bank to computerise and mechanise but whether I should by my award permit mechanisation and computerisation in the Reserve Bank. Hence, even though the Bank may have the right to computerise and mechanise, it is to be considered whether it would be in the interest of the country and industry and labour to permit computerisation and mechanisation in the Reserve Bank. That is the line on which pleadings are made and that would therefore be the area of dispute. It is possible to say at this stage only that we are concerned with Reserve Bank of India as an institution and therefore the consideration of proposals of employment or unemployment should be restricted to Reserve Bank and not looked at from the point of view of the country. That in fact is the commendable position. But since the trade unions were very enthusiastic in speaking about the general conditions, perhaps a hearing could be given to what they have to say on the subject. That is why the arguments made on that line are looked into. It will have to be remembered however that a sophisticated computer already exists in Reserve Bank. It is not put to its full use including the use for operational and enforcement purposes. The Bank is now asking for it being so used. Similarly, some

machines are already in use in different departments. But more useful machines are sought to be brought in for diverse functions.

The issues

41.41 In view of the foregoing, the issues that arise for our decision would be—(i) whether more machines could be allowed to be used by the Bank in different departments, (ii) whether the computer at present introduced should be used for more purpose such as operational purposes and enforcement purposes, and (iii) whether more computers could be allowed.

Obligations and Responsibilities of the Bank

41.42 For understanding their case parties have referred to a number of books and have also led oral evidence. On behalf of the Bank 4 witnesses were examined. The Association examined 12 witnesses on their behalf. No witness was examined on behalf of the Organisation or any other unions. It was found convenient for the parties to file affidavits of the witnesses in lieu of examination in chief and I permitted them to do so. Each of the witnesses has been cross examined. Several documents in the nature of forms or extracts have been filed by the management of the Reserve Bank and the other parties, but I feel that in the ambit in which the discussion is to run many of them would be redundant.

41.43 It would be useful to explain the working of the Reserve Bank of India in the light of the likely or expected use either of the machines or of the computer. A number of obligations or the responsibilities are cast on the Bank by different statutes. In nutshell they could be described as follows :

The Reserve Bank of India is the Central Bank of the country and it has to perform several important statutory functions under various statutes. The main statutes are, the Reserve Bank of India Act, 1934. The Banking Regulation Act, 1949. The Foreign Exchange Regulation Act, 1973. The Public Debt Act, 1944. The Deposit Insurance and Credit Guarantee Corporation Act, 1961 and the International Monetary Fund and Bank Act, 1945.

41.44 The Reserve Bank of India was established under the Reserve Bank of India Act, 1934. The preamble to the Act says that it is expedient to constitute a Reserve Bank of India to regulate the issue of bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage. Section 17 of the Act empowers the several kinds of business which the Bank is authorised to carry on which include among others, the accepting of money on deposit without interest from, and the collection of money for, the Central Government, the State Governments, local authorities, and banks, the purchase, sale and rediscount of bills of exchange and promissory notes from Scheduled banks, State Co-operative banks, State Financial Corporations, etc., the making of loans and advances to Scheduled banks, local authorities, State Co-operative banks, State Financial Corporations, Financial institutions etc. against specified securities; the purchase and sale of foreign exchange; and the issue of drafts, telegraphic transfers and other kinds of remittances etc. Under Section 20 the Bank is under an obligation to transact Government business and under Section 21 the Central Government is bound to entrust the Bank with all its money, remittance exchange and banking transactions in India and the management of the public debt and with the issue of any new loans. Under Section 21A the Bank may by agreement with the Government of any State undertake all its money, remittance, exchange and banking transactions in India and the management of the public debt of and with the issue of any new loans by that State. In terms of this Section the Bank has entered into agreements with all the State Governments. Under Section 22 the Bank has the sole right to issue bank notes in India. Section 40 provides that the Bank shall sell or buy from any authorised person foreign exchange at such rates of exchange and on such conditions as the Central Government might determine having regard to its obligations to the International Monetary Fund. Under Section 42, every

scheduled bank is under an obligation to maintain a certain amount by way of reserve in the Reserve Bank and to send a weekly return to the Reserve Bank. Section 43B empowers the Bank to collect credit information from banking companies and to furnish such information to any banking company. Section 53 provides that the Bank shall prepare and transmit to the Central Government a weekly account of the Issue Department and of the Banking Department in such form as the Central Government may by notification in the Gazette of India, prescribe and the Central Government shall cause those accounts to be published in the Gazette of India at such intervals and in such modified form as it may deem fit. Section 54 provides that the Bank shall create a Special Agricultural Credit Department the functions of which shall be to maintain an expert staff to study all questions of agricultural credit and be available for consultation by the Central Government, State Governments, State Co-operative Banks and other banking organisations and to co-ordinate the operations of the Bank in connection with Agricultural Credit and its relations with State Co-operative banks and any other banks or organisations engaged in the business of agricultural credit.

41.45 Under the Banking Regulation Act, 1949 the Reserve Bank has been entrusted with several important functions in relation to commercial and co-operative banks and several returns are required to be submitted by the banks to the Reserve Bank. Under Section 19A the Reserve Bank can, in the circumstances mentioned therein, remove a director and appoint a suitable person in his place. Under Section 10B the Reserve Bank can remove the Chairman of the Board of Directors if it is of the opinion that he is not a fit and proper person to hold such office and appoint a suitable person in his place. Under Section 18 every banking company not being a Scheduled bank has to maintain a certain amount by way of cash reserve and has to submit to the Reserve Bank before the 15th day of every month a return showing the amount so held on Friday of each week of the preceding month with particulars of its time and demand liabilities in India on each such Friday. Under Section 21 the Reserve Bank is empowered to determine the policy in relation to advance to be followed by banking companies generally or by any banking company in particular and when the policy has been so determined all banking companies or the banking company concerned shall be bound to follow the policy so determined. By Section 22 it is provided that save as therein mentioned, no company shall carry on banking business in India unless it holds a licence issued in that behalf by the Reserve Bank and any such licence may be issued subject to such conditions as the Reserve Bank may think fit to impose. Under section 23, no banking company can open a place of business in or outside India without obtaining the prior permission of the Reserve Bank. Under Section 24 every scheduled and non-scheduled bank has to maintain an additional reserve of 25% of its total demand and time liabilities in India and for the purpose of ensuring compliance with the provisions of the section every banking company has to furnish to the Reserve Bank a monthly return within 15 days after the end of the month to which it relates. Under Section 25 every banking company has to submit within one month from the end of every quarter a return of the assets and liabilities as at the close of business on the last Friday of the previous quarters. Under Section 26 every banking company has to submit within 30 days after the close of each calendar year a return as at the end of each calendar year of all accounts in India which have not been operated for 10 years. Under Section 27 every banking company should before the close of the month succeeding that to which it relates, submit to the Reserve Bank a return showing its assets and liabilities in India as at the close of business on the last Friday of every month. Under Section 28, the Reserve Bank, if it considers it in the public interest so to do may publish any information obtained by it under the Act in such consolidated form as it thinks fit. Under Section 35 the Reserve Bank is empowered to cause an inspection of any banking company and to make a report on such inspection. Under Section 35A the Reserve Bank has power to issue directions to banking companies generally or to any banking company in particular and all the banking companies or the banking company concerned shall be bound to comply with such directions. Under Section 36 the Reserve Bank is empowered to caution or prohibit banking companies generally, or any banking company in particular, against entering into any transaction or class of transactions and generally to give advice to any banking company. Under

Section 36AA the Reserve Bank has powers in the circumstances mentioned therein, to remove from office any chairman, director, chief executive officer or other officer or employee of the banking company. Under Section 36AB the Reserve Bank has power to appoint additional directors of a banking company. Under Section 38 a banking company can be wound up only if the Reserve Bank certifies that the banking company is unable to pay its debts or an application for winding up is made by the Reserve Bank. Under Section 44B, a High Court cannot sanction a compromise or arrangement between a banking company and its creditors unless the compromise or arrangement is certified by the Reserve Bank. Under Section 45 Reserve Bank has power to apply to the Central Government for an order of moratorium in respect of a banking company and during the period of moratorium to prepare a scheme for reconstruction or amalgamation of the banking company. Under Section 56, the provisions of the Act applies to the co-operative banks as they apply to banking companies subject to the modifications contained therein.

41.46 Under the Foreign Exchange Regulation Act, 1973 the Reserve Bank regulates payments and dealings in foreign exchange and securities. According to the preamble, it is an act to consolidate and amend the law regulating certain payments, dealings in foreign exchange and securities, transactions indirectly affecting foreign exchange and the import and export of currency and bullion, for the conservation of the foreign exchange resources of the country and the proper utilisation thereof in the interest of the economic development of the country. Under Section 6 of the Act the Reserve Bank can authorise any person to deal in foreign exchange and an authorised dealer shall, in all his dealings in foreign exchange and in the exercise and discharge of the powers and of the functions delegated to him under Section 74, comply with such general or special directions or instructions as the Reserve Bank may from time to time think fit to give and except with the previous permission of the Reserve Bank an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under the section. Under Section 7 the Reserve Bank is empowered to authorise any person to deal in foreign currency i.e. to act as money-changer. Under Section 8 except with the previous permission of the Reserve Bank no person other than an authorised dealer can purchase, sell, borrow or lend foreign exchange and no person whether an authorised dealer or a money-changer or otherwise can enter into any transaction which provides for the conversion of Indian currency into foreign currency or foreign currency into Indian currency at rates of exchange other than the rates for the time being authorised by the Reserve Bank. Under Section 18 the Central Government may prohibit export of all goods or any goods from India to any place specified unless the exporter furnishes to the prescribed authority a declaration in the prescribed form supported by such evidence as may be prescribed and true in all material particulars which among others shall include the amount representing the full export value of the goods or if the export value of the goods is not ascertainable at the time of export, the value the exporter expects to receive on the sale of goods in the overseas markets and affirms in the said declaration that the full export value of the goods has been or will within the prescribed period be paid in the prescribed manner. That section also provides that where any export of goods to which any notification under the section applies has been made, no person shall except with the permission of the Reserve Bank do or refrain from doing anything or take or refrain from taking any action which has the effect of securing that the payment for the goods is made otherwise than in the prescribed manner or is delayed beyond the period prescribed or that the proceeds of sale of the goods exported do not represent the full export value of the goods subject to such deductions, if any, as may be allowed by the Reserve Bank of that the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade. The Central Government has framed the Foreign Exchange Regulation Rules, 1974 providing for the manner in which declarations have to be made for export and the period within which the export value of the goods is to be paid. The Rules provide that (a) in the case of exports otherwise than by post the original of the declaration shall be furnished to the collector of Customs and all the copies thereto shall also be submitted to him or his verification and authentication, (b) in the case of exports by post the original of the declaration shall

be furnished to the postal authorities, (c) the documents pertaining to every export passed by the customs or the postal authorities shall within 21 days from the date of export be submitted to the authorised dealer mentioned under the relevant declaration form, unless the Reserve Bank authorises otherwise and (d) the amount representing the full export value of the goods exported shall be paid to the exporter within 6 months from the date of the export of the goods provided that in the case of goods exported to Pakistan or Afghanistan the amount representing the full export value shall be paid to the exporter within 3 months from the date of the export. Under Section 74 the Reserve Bank can delegate any of its powers or functions under the Sections specified therein to any authorised dealer subject to such restrictions, conditions and limitations as may be specified in the order.

41.47 Under the Public Debt Act, 1944, the Reserve Bank manages the public debt of the Central and State Governments. The preamble states that it is expedient to consolidate and amend the law relating to Government securities and to the management by the Reserve Bank of India of the public debt of the Government. All the powers under the Act are exercised by the Reserve Bank on behalf of the Central and State Governments. The Public Debt Rules, 1944 and various other statutory rules provide for the procedural aspects in relation to the securities.

41.48 The Deposit Insurance & Credit Guarantee Corporation 1961 is a wholly owned subsidiary of the Reserve Bank of India. The Deputy Governor of the Reserve Bank is the Chairman of the Corporation. The Corporation insures the deposits of the commercial banks, co-operative banks and regional rural banks and furnishes guarantee for the loans given by the commercial banks and co-operative banks and State financial corporations to weaker sections of the community and the small scale industries. The corporation has framed several guarantee schemes providing for guarantee for small loans to priority and neglected sectors. The banks and financial corporations have to send returns regularly for the purpose of calculating the insurance premia on the deposits and the guarantee commission on the loans guaranteed.

41.49 The Reserve Bank acts as the agent of the Central Government in respect of India's membership of the International Monetary Fund. The International Monetary Fund & Bank Act, 1945 is the municipal law based on an international agreement between the various countries. The act was amended in 1969 to enable the Reserve Bank to hold and operate the special drawing rights that the Government would acquire from the Fund. Section 3A of the Act provides that the Reserve Bank may on behalf of the Central Government use, receive, acquire, hold, transfer or operate the special drawing rights of that Government in the International Monetary Fund and perform all acts supplemental or incidental thereto. Under the article of agreement of the International Monetary Fund member countries are required to maintain stability in their exchange rates. The stability of the exchange rates can be maintained in the event of an adverse balance of payments, only if a country has adequate foreign exchange resources. If a member country's balance of payments is in deficit, the Fund allows temporary relief permitting the country to draw upon the special drawing rights. The Fund insists on a correct picture of the economic situation in the country, in order to determine the extent of the drawing which could be permitted.

41.50 To summarise, the Reserve Bank as the Central Bank of the country has got the following functions : (1) Banker to the Government and in this capacity managing the public debt also, (2) Sole note issuing authority and managing the currency of the country, (3) Monetary Regulation, (4) Supervision of banks, (5) Foreign Exchange Management and Control, (6) Developmental role in rural credit and industrial finance, (7) Bankers' bank and in this function it manages the Clearing House, (8) agent of the Government in dealing with the International Monetary Fund, (9) Compilation and analysis of statistics and use of the same for proper regulation of banks, financial institutions, etc. and (10) Adviser to the Government.

Oral Evidence for the Bank—Witness Dr Damle

41.51 So far as the role and functions of the Bank is concerned, Shri Yeshwant Balkrishna Damle, Adviser and Officer-in-Charge, Management Services Department, Reserve Bank of India, Central Office was the witness to explain this side on behalf of the Bank. He has varied experience of working in the State Bank of India and its different offices and, in particular, of the computer department. He has to deal with problems of organisation, design, productivity, costing systems, work procedure and planning, connected with Reserve Bank of India. According to him for a Central Bank like the Reserve Bank of India the objectives are to promote or accelerate high growth rate of employment opportunities, stability and viable external payments position. Looking to the statutory responsibilities of the Reserve Bank of India, he says it is necessary to have upto date information on various aspects of banking and economy. Computer aided data base system would be helpful for getting the data from the existing statements received by the Bank and its branches. The form of the statements also could be modified.

41.52 Restricting to credit control system, particularly in non-food non-priority sectors, he emphasised the need for monitoring the same on a week to week basis if not earlier. According to him, computers and telex network is prerequisite for this purpose.

41.53 Looking to the function as currency authority, which inter alia involve issue of bank notes and ensuring proper distribution thereof, he referred to 3352 currency chests and the notes in circulation being 7740 million pieces aggregating to over 10,000 crores with a likely increase by 1984 to 12,500 million pieces. He deposed that at present, there is shortage of currency notes because of uneven distribution. Consequently, studies will have to be carried out relating to inventory control whereby harmonious distribution of available notes could be made. Then he referred to the Clearing House work which the RBI has to undertake as banker to the bankers and also as one of the members of the Clearing House. There has been rapid increase in the number of cheques to be cleared per day. In Bombay, 48,958 cheques are cleared every day. The Clearing House is not working properly and the work is in arrears and hence what the witness says is that computerisation of the clearing house operations will enable completing the process of adjustments in 45 minutes to one hour. Consequently, there can be re-introduction of return clearance meeting and also additional meeting for suburban centres, which will substantially improve customer service in banks.

41.54 In the role of Reserve Bank of India as banker to Government, the Bank has to look after receipts and payments on account of Government, consolidation of transactions conducted in the Reserve Bank and the agency banks. This work is done at the Central Accounts Section, Nagpur. 80% of the agency work is done by the State Bank of India where the work is computerised. There are heavy arrears in the outstanding discrepancies. Reconciliation of remittance transactions also show heavy arrears of unadjusted amount running into a period of 12 years. It is said that computer is necessary to keep the work up-to date.

41.55 The other area of the activities of the Bank is management of foreign exchange reserves, purchase and sale of foreign currencies, where according to him computer is necessary for analysis of investments or for research in making forecasts. The investment portfolio consists of over Rs 4000 crores. These are in various currencies. There is no standard yield pattern for such investments. It is said that it will be in the national interest to pass investment decisions on scientific analysis of the available data. At present, he said that no analysis is done. The work is left to the senior officers only.

He then refers to the Services Board and Recruitment Sections of the Bank's office, and says that computer is necessary for scrutiny of applications and tabulation of results of various competitive examinations. In the Department of Non-Banking Companies regarding the proceeding of the statistical data or the annual surveys made or deposits with the non-banking corporate sector it is said that computer would be useful while looking to the statutory returns submitted by such companies.

41.56 On mechanisation the witness says that it will help facilities the work for the present employees by reducing monotony, getting better job satisfaction leading to improved customer service as also simplification of work procedure. According to him, it will not have any significant impact on employment. He further says that there will be all round increase in the level of employment and it is expected to be steady. According to the witness, the Reserve Bank as central banking institution has to play important role in the economy and hence a sectoral or institutional view of employment opportunities should not be entertained. The Reserve Bank is like the brain for the banking industry. The control sector cannot be used to human complexes least it will be begged down in its own problem rather than of the economy.

41.57 In Cross Examination at Ex 63, he was asked questions whether there was any feasibility study conducted before installing the 1968 computer. The witness having joined the Bank has not information about it. He admits that there are limitations in the computer system and while explaining he says that computer is a tool and everything depends upon how it is used. Proper selection of equipment, training of people, parallel run of the system are some of the important things to be observed.

41.58 According to the witness the present computer in Reserve Bank of India is not put to full use. He has spoken about the delay in preparation of balance of payment statistics as has been said by another witness Mr. Iyer. At the time of giving evidence, the balance of payment figures were available only upto March 1979. Questions were asked to show that if the data itself is not received by the Reserve Bank from the authorised dealers delay is bound to occur but the witness was specific that even apart from delay at that source which could be remedied, in the processing of the data received also there was delay that can be easily eliminated by the use of computer.

41.58A As regards inventory control, he has referred to the uneven distribution of notes and denied the suggestion that the delay is due to non receipt of currency notes from the presses because of the production lag. In the security press or because of the transit delays.

41.59 As regards Clearing House, he denied that delays could be remedied by starting night clearing houses. According to the witness that experiment has failed. He admits that delay may be caused if the employees of some member banks are on strike but he says that the dislocation in that case would be local and not necessarily to effect the entire clearing house.

41.60 The witness had no knowledge whether less than 50 persons were working in the Central Accounts Section, Nagpur. He was in favour of computer there because more than one person can work at a time on one statement and 80 per cent of the work being computerised by the State Bank of India, a computer is necessary in Reserve Bank of India to have compatibility. There is urgent need for speedy settlements; discrepancies according to the witness are mounting. He admits that discrepancies in reconciliation are first required to be pointed out by the Pay and Accounts Office but denies that until then nothing could be done. Even afterwards the rectification will be far speedier and simple, once the mistake is pointed out. In fact, it is said that there would be less number of mistakes, not so many as are now which is of a frightening nature.

41.61 According to the witness monitoring of export transactions is now converted into a post mortem of happenings because of the delays. He however disagreed with the suggestion that he has suggested wholesale computerisation or mechanisation. According to him he talked about computerisation only in vital areas and mechanisation in areas where commercial banks in India have already gone in for over a decade now.

Witness K P N Nair

41.62 Witness K P N Nair happens to be person in-charge of the Department of Statistics, Reserve Bank of India. He had the advantage of working in the department right from 1948 from where he has risen up. He has seen the Honeywell 400 computer commissioned in 1968 and the present Honeywell Bull 64/60 computer system commissioned with

effect from September 1979. According to him the working of the Department of Statistics has improved with the introduction of the computer system. He says that but for the introduction of the said system, Reserve Bank would not have been able to collect and compile the present large volume of data on various aspects, which as the central banking authority of the country, it is the statutory obligation of the Bank to do. Witness says that Reserve Bank has to exercise control over the deployment of various sources of bank deposits and foreign exchange earnings in terms of priority sectors and weaker sections of the community. The distribution has to be geographical as well as in rural and urban areas. The Bank has responsibility of watching the realisation of export proceeds in approved manner. The Bank has to review the quantum and direction of imports and exports for rendering advice to the Government for policy formulation and changes therein.

41.63 Witness further refers to the surveys carried out with the aid of earlier computer. According to him a serious gap in data on bank advances would have arisen in the absence of a computer system in the Bank. Prior to the introduction of computer in the Bank, a crude fortnight survey was done and the Unit Record System was used to process the figures. Now the data collected is massive in volume and from various sources, so that more than 12 lakh punch cards are now processed for the 6-monthly report. The data can now be presented under different items like industry-wise deployment, district-level wise or other break ups.

41.64 The compilation of balance of payment statistics is another area where the work has increased manifold. There are about 6000 export negotiation transactions with an equal number of import negotiations and other miscellaneous transactions. Processing has, therefore, become involved. Back data is required and this cannot be obtained within one month of the receipt of last batch of data of the reference month.

Modelling for the economy as a whole is another major area where the bank could play a major role. For all these, a computer is necessary, according to the witness. The computer system enables the Bank to take a number of measures for improving the quality of the processed data through cleaning and validation of primary data under the different fields mentioned in his affidavit viz. processing sample surveys, processing exchange control data, checking currency codes and processing basic statistical returns of banking. Witness refers to the consolidation of returns under Section 45 (2) of the Reserve Bank of India Act and the delay in submission by some banks. At present only provisional returns are sent but the position can be improved with the help of computer so that the functioning of this area would be brought on line.

41.65 While referring to the necessity of the use of computer for operational and enforcement functions, he points out that the electro mechanical aids of the Unit Record Equipment viz. Punchers, Verifiers, Sorters, Collators and is out of date and unable to be secured as fresh articles. On the contrary, new methods with far more improvements like the Direct Data Entry Systems have come in. The witness pleads for the use of it. According to the witness where there is research of analysis of follow-up action, analysis of feed back is necessary which will create an all round stimulation in employment.

41.66 In Cross Examination, the witness defines computer as an equipment which functions by electronics. It enables very quick processing of information fed into it, enables storage of large volume of information and facilitates very quick retrieval of that information which is stored in it. In addition, the computer can sort information according to different characteristics; it can match information contained in different files. Witness says that coding means assigning number or alphabet to economic units to uniquely identify them and after such coding the information is punched on cards. Witness was asked question about the surveys carried out. Regarding balance of payments position he has reiterated that the available information is as of March 1979 because further data has not been given for processing and without receipt of the data by the Department of Statistics, nothing can be processed. Although he admits that more compilation of balance of payments statistics can be done on URE, it takes a long time and according to the witness considering the large volume computerisation is necessary. Questions were

asked on modelling for the economy and cleaning and validation of the data and he admitted that mistakes can be found out manually. However, the witness adds that this is only a general statement speaking only about the possibility and not the advisability of doing it.

41.67 Witness said that the sanction of the Government of India was obtained for introducing 1979 computer. What is required is establishing a case for introducing the computer and clearance for using it for different purposes. He was asked questions regarding the assurance given when the 1968 computer was introduced. According to the witness the assurance was in terms of no retrenchment and not that the computer will not be used as substitute for regular employment. It is elicited from him that the computer in use in the Reserve Bank now is a fourth generation computer and there are about 150 punch operators in the employ of the Reserve Bank, the suggestion being that if the punch operators job is done on the computer they would be rendered idle because the micro processor will replace the sorter and tabulator machines. Such a possibility was hinted in his cross examination.

41.68 According to the witness the new computer installed in 1979 is working for about 9 to 10 hours per day and for reduced hours on Saturdays, though it has a far more capacity.

Witness T. N. A. Iyer

41.69 Witness Iyer is the Controller, Exchange Control Department, Reserve Bank of India. He was in the department from 1977 and is fully conversant with the working of the Exchange Control Department. He says that his department is handicapped because of non-utilisation of technological devices like the latest electronic data processing machine as aid in the operational work. The returns prescribed in the Exchange Control Regulations are the base not only for exercising control over transactions but also for compilation of the country's balance of payment statistics. The flow of returns from the authorised dealers through the regional offices of the Exchange Control Department and of coded sheets prepared by the Regional Offices are received after considerable delays and the position is worsening. Formerly it was possible to give the balance of payments position within 3-4 months of the reference period but now it is behind by 2 years as only the position of March 1979 is available. Roughly speaking, the net delay was of 20 months and the witnesses ascribes 3 months delay at the end of the authorised dealers, one month delay in processing, but 16 months delay for coding in the regional offices. Therefore, according to him data base and management information system is of national importance. Sheer volume of work and complicity of the task involved would show that a computer is necessary. Functions that could be done quickly are realisation of full value of exports, stopping leakage of foreign exchange in the absence of prompt follow up, observing the procedure correctly and eliminating delays. Absence of these would result in non-apprehension of an exporter if he does not repatriate the proceeds in full or if balance is not repatriated in case of part invoices, or if the export has allowed reduction without the approval of the Reserve Bank of India or if he settles certain claims out of the export proceeds outside India or gives commission to his agent out of export proceeds and repatriates only the balance or such other transactions. A quick follow-up with the aid of computer alone would thwart him from these. It is thus suggested that manual working may or may not detect the above errors, depending upon whether or not one stumbles on that in time. The arrears gap is widening and studies conducted show that it would be shortly impossible for the work to be coped manually even if the staff is increased. It is not possible to grapple with the colossal task with the help of staff made available even by increasing the strength. According to the witness, at present, GR forms are sent from the place of origin to different places. In certain cases it happens that the originals are received at the wrong destination in which case much time is lost in transit with the risk of original getting lost in such unnecessary transits. This danger will not be there if information is passed on after obtaining it on computer. Information is also required to be supplied to the CBI/Enforcement directorate. Further, it is also useful to link up the available data of each economic unit and study inter relationship of different variables.

41.70 In Cross Examination the witness says that if any body wants to import anything he has to do it under licence

or has to satisfy that he can import under the general open licence. Thereafter, the authorised dealer releases the foreign exchange. In the case of exports, parties have to deliver the original CR form to the customs authority and the duplicate and triplicate form together with other relevant documents are given to the authorised dealers. When the transaction is negotiated, the duplicate form is sent to the Reserve Bank and when the proceeds are realised by the authorised dealer, the triplicate is sent to the Reserve Bank.

41.71 Questions were asked about the balance of payments and it gathered, in substance, that the position is required for framing of policy and for intimating the correct position to the international authorities. Witness has further said that if the exporter does not follow the banking channels, he can be handed over to the enforcement authorities. Similarly, it is necessary to find out whether the duplicate is received in time and whether realisation is made within the stipulated period and that the triplicate is received by the Reserve Bank of India. For all these purposes, computer will be useful in doing these operations quickly. Suggestions were made to him as in the case of other witnesses that the delay is caused not because of delay in coding but because of the authorised dealers not sending the return and the forms in time, but the witness is firm that apart from that delay, there is delay in coding the information received. It was also put to him that the delay can be due to under staffing but the witness denied that suggestion. He is also relying on the chart given to me in this respect on asking of the Association. According to the witness sometimes even when the authorised dealers receive the payment, the triplicate form is not sent promptly or they omit to send them. If the exporter does not take action for non-realisation or under-realisation, a burden is cast on the authorised dealer and it is said that the Reserve Bank of India should between in supervising the transactions. Although the primary responsibility is of the exporter, the witness does not admit that there is no responsibility cast on the authorised dealer or the Reserve Bank of India.

41.72 One more witness examined on behalf of the Bank is Shri Waman Sonupant Saraf who is working as Director of Statistics in the Reserve Bank of India. He has produced replies to the telex messages sent to the monetary authorities/central banking organisations of Singapore, Indonesia, Ceylon, Burma, Malaysia, Korea and Philippines. The information asked is about the use of computers by these banks. The queries have been answered in the affirmative and it is to be remembered that these countries are developing countries, as in the case of India. The suggestion is that in the economy of developing countries computer has a place and there should be no bogie of unemployment.

Oral Evidence for the Association—Witness Amar :

41.73 Of the 12 witnesses examined on behalf of the Association, Mr. Jitendra Kumar Amar is witness No. 1. He is a clerk working in the Issue Department, Nagpur. In his statement, he speaks of the present working of the Resources Section as well as the Accounts Section of Issue Department. His evidence is calculated to rebut the evidence of Dr. Damle so far as currency chests are concerned. The witness in the first place explains how half yearly indent from the currency chests are received and how assessment is made for satisfying the requirements of the chests. This assessment is based upon the holding capacity of the chests and also the availability of notes at the Issue Department, seasonal fluctuations in the demand of notes and coins in different areas. The witness is making out a point that due to the limited capacity of the presses and mints in printing notes or minting coins as well as due to non-availability of railway wagons on time, remittances suffer. In other words, according to the witness, the dislocation or disturbance in distribution is due to these factors and not because of the chaotic position due to inflated demands and arbitrary assessment. According to him if computer is introduced, it will result in dislodgement of a large number of clerks engaged in posting of personal ledgers of individual chests and reconciling balances from currency chest slips.

41.74 In Cross Examination, questions are asked to show that he has no personal knowledge outside the Nagpur Circle. In the country there are 13 circles. In the Nagpur Circle itself 346 currency chests are there. It is thus sought to be shown that the witness is speaking on a very meagre data. The witness has said that chest-wise no analysis is made of the denomination-wise requirement over a given period.

Witness Krishnamacharyulu :

41.75 Witness No. 2 is Nanduri Krishnamacharyulu from the Deposit Accounts Department of the Madras Office. He restricts himself to the Bank's demand for introduction of accounting machines for ledger posting, preparation of day book, posting, preparation of day book, posting of statement etc. He has also deposed about pay-rolls. He has explained the functioning of the Deposit Accounts Department in the capacity of the Bank as Banker's bank. He has also spoken about the procedure of preparation of pay-rolls. In this connection it may be noted that in Bombay proper, pay-rolls are prepared on Unit Record Machines and at other places it is done manually. He has explained the procedure of maintaining ledger books and also says how when a cheque is presented for payment they have to verify whether they do not bear any cross and in the case of bearer cheques they are signed by the tenderer. According to the witness, all these things cannot be done by a machine but it is relevant to note that in the assessment of the witness subsequent posting on machines will also take more time than the posting if done manually. The work is roughly of 3 types, viz. Bank transactions, cash transactions and other transactions like transfer entries, etc.

41.76 According to the witness, preparation of salary sheets if done manually has a distinct advantage because the employees themselves can check their salary bills and see if it is correctly done and there is greater adjustability.

In cross-examination, the witness said that there are about 60 instalments per day per branch, on an average and there are 50 branches. This the witness is saying about Madras Office, where he has worked all throughout. There would thus be 3000 such transactions. What is material to note in cross-examination is that although the witness has spoken about the comparative merit of manual work and that of the machine, he admits that he has not seen the ledger-posting machine. His information is therefore gathered from reading books. He admits that while doing the work manually, they first arrange the cheques accounts-wise, then they scrutinise the cheques and then posting is done in the ledger. Thereafter, the balance is drawn. Even if the machine is used, according to the witness, arranging of cheques and posting them in the ledger would have to be done manually. That is to say, scrutiny and drawing the balance alone could be done by the machine. Both his statements will have to be taken as incorrect.

Witness Barhanpure :

41.77 Witness No. 3 for the Association is Murlidhar Barhanpure of Central Accounts Section, Nagpur. He explains the present working of the Central Accounts Section and speaks in rebuttal of what witness Dr. Damle has said regarding reconciliation. Regarding remittance clearance, he says that it relates to drawings effected by State Bank of India on treasuries or by treasuries on State Bank of India, as well as on Reserve Bank of India by allied banks. When drawing schedules are received, the sending agency is debited and when paid drafts are received, they are credited. The next step is to sort out the drafts group-wise. Documents are arranged place-wise, date-wise, separate lots being made of schedules and paid drafts. Balancing is done monthly. Normally, drawing schedules are received earlier and paid drafts thereafter, but in a number of cases the schedule is not received by Central Accounts Section in time and the paid drafts are received earlier. Hence, correspondence starts between the drawing office and the Central Accounts Section. The information sought for is often not furnished by the concerned agencies, in spite of repeated reminders. The witness is thus interested in showing that the delay is not on the part of the Central Accounts Section.

41.78 In cross-examination, the witness says that in Central Accounts Section, there are two wings—Government Accounts Section and Remittance Clearance Section. Reserve Bank of India acts as banker to the Central Government, as also to the State Governments by agreement. In Remittance Clearance Section, lists of drafts issued by different banks are received. The witness says that there can be a time lapse between the date of payment appearing on the schedule and the date on which the schedule is received. About 4000 transactions by subsidiaries, treasuries etc. are shown in the schedule per month. He admits that computer may help in sending the reminders. When pointedly asked about arrears, he denied that in 1979, the outstandings were to the extent of Rs. 120 crores, although he admits that they were upto

Rs. 40 crores. He has also admitted that about 1000 transactions were repeated. Between 1974 and 1976 and even today, mistakes are repeated. The delays and mistakes have been brought to the surface.

Witness Rehan :

41.79 Witness No. 4 for the Association is Ranjit Kumar Rehan from the Department of Banking Operations & Development, New Delhi. He speaks of the present procedure of collection of data from various banks through the Regional Offices of the Department of Banking Operations and Development and then processing, scrutiny of the various statutory returns or statements received from various banks under the Banking Regulation Act, 1949, compilation and consolidation of various figures received in respect of bank credit etc. at regional office level and processing of information in the shape of basic statistical returns at Central Office. In his examination-in-chief, he refers to certain returns under Section 24(2) of the Reserve Bank of India Act, monthly returns under Section 27 of the Banking Regulation Act, annual returns under Section 26 of the Banking Regulation Act, balance-sheet under Section 31 of the Banking Regulation Act and monthly returns under Section 24 of Banking Regulation Act. According to the witness, a large number of branches of banks either delay or default in submission of basic statistical returns. The witness says that without getting the returns from branches of banks, it is risky to base future decisions and policy-making on inadequate and incomplete data. In other words, according to him, computer would not be of help unless the basic data are received in time. As regards follow-up work in respect of inspections, according to him, town cards are nicely arranged and hence there is no necessity of Kardvayer machines. What is required, according to him, is taming of the erring banks.

41.80 In cross-examination, questions were asked about the working of Kardvayer machines. His answer shows that he is not aware of the actual working of it. But, he seems to have gathered some knowledge and his replies are based on that knowledge. When pointedly asked, he says that he is not aware whether pressing the button and getting the card facilitates the work of the employee. The witness is thus prevaricating.

Witness Krishnan :

41.81 Witness No. 5 is Conjeevaram Gopalakrishnan from Public Debt Office, Madras. He speaks of the procedure of issue of interest warrants in respect of government securities at Public Debt Offices. According to him, the work pertaining to final delivery of the interest warrants has to be processed through various stages in the different sections of the department. This has to be done at regular intervals. He expresses the opinion that the present manual system proves adequate and efficient and therefore he is opposed to either Kardvayer 4370 or Nelco 300 Business System or Philips PTS 6000. He expresses an opinion that no meaningful purpose will be served by these machines. In cross-examination, he was asked questions to show that in addition to interest warrants, the department has to deal with a number of powers of attorney registered in the office, as well as other instruments. Witness admits that there could be in thousands. He also admits that four days are required to prepare interest warrants for one individual. He has only heard about Kardvayer and other machines. This means he has no personal knowledge of the machines or of their working and what he says is guess-work.

Witness Poddar :

41.82 Witness No. 6 for the Association is Kanitish Chandra Poddar from Public Accounts Department, Calcutta, deposing about clearing house operations. He speaks about the functioning of receipts, payments, clearing, transfer operations in respect of government accounts in the Public Accounts Department, as also the functioning of the clearing house. According to him, receipt on account of government should be effected through various challan forms. Amounts are received by cash, transfer or clearing. Cash is received by Teller in the Cash Department, along with challan forms and this is sent to the Receipt Section of Public Accounts Department for checking and scrolling and thereafter for onward delivery to the tenderer. In clearing section, they are sorted out for recording in different scrolls, then transfer entries are made. Challans are sent to the Receipt Section

and thereafter receipted copies given to the tender. As regards clearing section, he says that section lists all cheques head of account-wise, branch-wise and bank-wise. With the help of simple adding machine operated manually, amounts are tallied and after segregation, challans are sent to the Receipt Section. Referring to clearing house operations, he says that representatives of member-banks sit around a table and double entry system is followed. When all receipts and payments are consolidated, it ought to agree. This is called balancing. Then individual debit is decided upon. In his estimation, under the present system, public and government are served promptly.

41.83 In cross-examination, he speaks of 1400 cash transactions in Calcutta Office and the tenderer requiring an hour to get the receipted challan. This is a substantially long time. He says that about 4000 cheques are received at the clearing house on an average every day and it takes two to three hours for inward clearing and about four hours for outward clearing. Approximately, 17000 transactions are cleared every day. He has no idea as to what type of machines the Reserve Bank desires to introduce. Therefore, his evidence would be of no help in understanding the comparative merits.

Witness Ramalingam :

41.84 Witness No. 7 is Tiruchirappalli Ramalingam from Issue Department (Cash Department), Madras. He speaks about the functioning of cash receipt counters in Public Accounts Department and in Cash Department. The procedure followed for receipt of challans in respect of the Central and State Governments is explained by him. He refers to the amount being retained by the tenderer and the challans being scrutinised by the Teller to ensure that the challans are properly filled up. The amount is verified qualitatively and quantitatively. The tenderer is issued a token. Challans so received are scrutinised. The original is sent to the delivery counter. Duplicates and triplicates are sent to the Public Accounts Department for further necessary processing. According to the witness, introduction of machine at the cash counter will result in displacement of a large number of tellers, because the job of writing the scroll, totalling of the scroll, stamping, signing of the challans etc. would be done by the machine. Simultaneously, the process of checking and counter-checking and reconciliation with Public Accounts Department will be abandoned. This would add to the stagnation. According to him, the present system of balancing is working well, and therefore there is no need for mechanisation. In cross-examination, he admits that he does not know what machine the Bank desires to instal in these departments. Therefore, in the absence of any specific suggestions, his evidence would be of no assistance in understanding the comparative merits.

Witness Saha :

41.85 Witness No. 8 for the Association is Gurupada Saha from the Department of Non-Banking Companies, Calcutta. He speaks of the present functioning of that department and processing of returns received from the non-banking non-financial companies all over India. The department conducts periodical surveys to collect information on acceptance of deposits by non-banking companies and their other business. Returns are submitted by the companies. The department reviews from year to year the trend of public deposit in non-banking corporate sector, on the basis of the returns so received. According to the witness, the work can be done manually with equal efficiency and accuracy. He says that the Company Law Board is a hurdle in the way of compilation of statements. According to the witness, the number of returns have increased from 2591 in 1967 to 5828 in 1977 but he says that the staff strength has not changed.

41.86 In cross-examination, the witness admits that in 1967-68, the Indian Statistical Institute compiled the returns on a computer but thereafter the compilation is done manually and it takes three years for the compilation. Earlier, it took 4 years. He does not know whether a survey was conducted in 1980 and whether the survey resulted in giving an inflated figure of 6000 crores. He also denied knowledge whether this mistake was because of duplication of 107 companies. This illustrates the danger involved. The suggestion of the Bank is that computer will be more precise.

Witness Malkotia :

41.87 Witness No. 9 is Manohar Lal Malkotia from the Issue Department, New Delhi. He is deposing for Note Examination Sections in the Cash Department. He speaks about the present functioning of the note examination sections, where he is working as a Clerk-cum-Coin-Note Examiner. According to him, one of the basic functions of Issue Department is to regulate the circulation of currency notes and coins and exercising effective check in the process, so that any malpractice is not resorted to. Bad, soiled and forged notes are separated and other notes are put back in circulation. Each packet is expected to contain 100 pieces before examination. The examiner has to ascertain the accuracy of the contents. He also has to sort them out. According to him, a machine can count, examine and sort 50,000 pieces per hour. This would, according to him, very much deplete the strength of coin-note examiners. They will be rendered surplus. As regards for lifting for sticking of note boxes/coin bags and mechanically controlled system of conveyor belts for movement of notes cases, the witness says this is not practicable, besides reducing the jobs.

41.88 In cross-examination, he is unable to say why the work was impracticable. He had read about the machine which can count, examine and sort 50,000 pieces per hour. Subsequently, he filed before the Tribunal, a brochure titled "A Day at the FED" (Federal Reserve Bank of New York). The passage referred to by him reads as under : (Page 10) :

"Machines are being used increasingly to keep up with the growing volume of notes passing through the department. These mechanical marvels range in size from table-top models, which count a bundle of notes in the blink of an eye, to roomfilling machines that each count some 50,000 notes an hour, spot suspect notes, sort out unfit notes and shred them."

According to the witness, one person can count, examine and scrutinise 4000 pieces of Rs. 5, 10 and 20 denomination notes. He also speaks about packing and sealing work done by coin-note examiners. He pleads ignorance of whether Class IV employees have refused to lift note cases, saying that they were heavy.

Witness Jagtap :

41.89 Leaving aside witness No. 10, Dr. Bose, we come to witness No. 11 for the Association. His name is Hanuman Jagtap. He speaks about the Industrial Finance Department, Bombay where he was working, although presently he is working in the Exchange Control Department, Industry-wise, State-wise classification is done by various types of credit institutions. Statements are received in the department from various branches of commercial banks, cooperative banks, rural banks and State Financial Corporations. Witness says that very rarely these returns are submitted in time. They are scrutinised as soon as they are received. In other words, according to him, the work done manually is done expeditiously, but the delay is because of non-receipt of returns. In cross-examination, he admits that institutions sending the returns are more than 50,000. Statements are received from branches of different banks and there would be about 20,000 branches. It was previously half-yearly returns. These statements are required for preparation of statement regarding balance of payments. He pleads ignorance whether the statements are used for policy formulation. He also pleads ignorance whether the work is in tremendous arrears. These questions are put to him to show the vast volume of work involved and that it is important for framing the policy.

Witness Chatterjee :

41.90 Witness No. 12 is Ratan Chatterjee. He is from Exchange Control Department, Calcutta. He explains the functioning of Exchange Control Department in general and Export Coding, Balance of Payments and Statistics in particular. According to the witness, the different sections effecting various checks on export process comprise of export side of the department. The work relates to checking the realisation of foreign exchange and therefore it is very important. The check is effected through the system of declaration of information in forms GR/EP/PP, as the case may be, in triplicate. These forms are available from the Authorised Dealers. The exporter has to present to the customs authorities all the three copies of the form for valuation of the goods. The original is retained by the customs, the other

two copies are collected by the representative of the bank. The original is sent directly to the Bank by the customs authorities. The exporter has to submit the duplicate and triplicate of the documents. The Authorised Dealer negotiates the transaction. After negotiation, the duplicate is sent to the Reserve Bank. After realisation of the proceeds, the triplicate is certified and sent to the Bank. There is a time-limit for doing these operations. The Authorised Dealers send such forms periodically with the Returns to the Exchange Control Department, Statistics Section. Then coding starts and then the receipt or non-receipt or delayed receipt of any form and the reasons therefor are found out. Witness says that the exporter or authorised dealer has to be chased in case the duplicate or triplicate copy is not received. According to him, the Bank is not at all serious in conducting scrutiny and follow-up. This, according to him, is due to the wilful neglect on the part of the management. He has thus taken a complacent view of the matter and that is the way in which he would like to answer about introduction of computer technology for the purpose of processing and follow-up action. He wants to say that manual work is upto-date. He has given figures in terms of a period of 10 days, so that for originals of 1981, the work completed in Bombay is of 250 days of the year, in respect of duplicates 210 days and in respect of triplicates 210 days, showing the back-log of the remaining days. According to him, computerisation is not necessary and it would result in displacement.

41.91 In cross-examination, he admits that chasing has to be done most expeditiously and if this is not done expeditiously, the whole purpose would be lost. He has thus appreciated the efficacy of the process. At present, he says, matching is done manually in Calcutta centre. According to him, the delays are caused by insufficient staff. He pleads ignorance whether the total number of forms—originals, duplicates and triplicates—received in Bombay are far more than that received in Calcutta, or that they may be three times. In Calcutta, in 1980, he says the total forms received were 2,65,000. He does not know whether in Delhi it can be two times of this. The witness is thus not able to say anything about other centres. What can be gathered from the evidence of the witness is that the work is most important and useful for policy formulation, as well as for realisation of foreign exchange. It is also useful for other purposes stated by witness Iyer.

Witness Dr. Bose :

41.92 The most important witness for the Association is Dr. Deb Kumar Bose, a Professor of Economics in the Indian Statistical Institute, Calcutta. He is an expert on computer technology and its application. He has done his Ph.D. in mathematical economics and has served as the leader in projects sponsored by the Planning Commission. He says that he has fair experience in unit record machines and electronic computers. He had occasion to examine the question of utilising electronic computers for routine data processing work. In his own institution, after discussion, decision was taken not to use electronic computers for routine data processing work, which can be done on unit record machines; but can be used only for research work.

41.93 The witness says that technological progress is essential for the development of the society. The impulse for change in technology and the nature of change arise from the conditions prevailing in the society at a particular time. According to the witness, computer technology was developed in the environment of an industrial society, where the cost of living was high because the supply was limited. According to him, such technology cannot be applied to other countries where the conditions are different. He says that every technology carries its own genetic imprint of the society out of which it was born. Transplanting such a technology in another society with different conditions may result in maladjustments.

41.94 He admits the important role of the banking system in the economic growth of the country, but according to him, improvement in the functioning of the banking system itself will not lead to economic growth. It is the growth of the economic activities that induces extension of the banking system. Therefore, the emphasis should be not on computer, but on the growth of economic activities. He admits that a computer has a role in our country. Computer technology opens up a new vista for the brain-power of man. It has made it possible to undertake complicated analysis, where

the operations follow calculations of logical functions for too lengthy for human memory to retain. It is now possible for man to solve problems in mathematics hitherto considered unattainable. Computer is useful only for such work.

41.95 Modern computers are capable of undertaking a wide range of functions, which can be understood from the performance of the satellites in the space and around the planets. Coding of the basic data based on logical reasoning can also be computerised. According to him, growth of the Indian economy has not been adequate to absorb the growth labour force into employment and computerisation of clerical and manual work can only intensify the problem of unemployment. Witness expresses the opinion that it will result in large-scale redundancy of labour in a labour-surplus economy, and when computer is introduced in the Reserve Bank, some employees will be retrenched or given alternative occupation, but the policy of recruitment will change. Witness also says that once the Bank introduces computer, eventually other organisations would follow suit, so that people of little education or education upto certain standards would find no place for employment. Witness emphasises that the primary sector of the economy, i.e. agriculture, is unable to absorb them. Industries in the secondary sector are not growing fast enough to absorb the surplus labour force. Therefore, the only sector where some avenues of employment for such population will be open is the tertiary sector consisting of clerical communication and other services or occupations. This is called poverty-induced tertiary sector.

41.96 Being aware of the delay because of the large volume of work to be done manually, the witness is extending his sympathies. He compares international transactions prior to the introduction of computer handled by countries like the U.K. with the present day transactions to be done without computer and expresses an opinion that Indian transactions not being that large could be done without computers. According to him, inherent in the data-processing system is the checking with the original documents at various stages of processing for the control of errors and large scale data-processing is considerably affected by this factor. The delay can also be due to interruptions in the follow of the basic data from sources. Although computers may improve the speed of data-processing, if the above factor exists, computerisation may not be of much help. Certain types of mechanisation of manual work can also affect the employment position. Therefore, witness says that time is not ripe for computerisation. It is discriminatory in its effect on employment, eliminating the avenues for employment for persons not very much educated. There is the danger of computerisation being adopted by other institutions, so that a premier institution like the Reserve Bank should take a national view, rather than a narrow view in the Bank's interest. Introduction of computers would have certain repercussions on employment opportunities and witness pleads that this should lead to a fruitful suggestions for defining the areas where computerisation can be adopted in the country.

41.97 It should be borne in mind that the witness himself has not offered any fruitful suggestion about the areas where computerisation could be introduced. His arguments for explaining the delay and his sympathies for the delay show that he is not prepared to battle over it, although the circumstances stated on behalf of the Bank show that computerisation will have repercussions on international transactions and would be useful in framing the economic policy of the country. The witness is advising to go back to the ages where computer was not there. By and large, the witness is expressing fear about unemployment, because, according to him, computer would not help the primary sector, of the agriculture. The secondary sector—the industry—is not growing fast enough and therefore the only field that would remain open for absorption of the unemployed will be the tertiary sector although the witness is aware of the potentialities of a computer to undertake complicated analysis.

41.98 In cross-examination, questions were asked to show that although computer is used in the Indian Statistical Institute only for research work, that work forms the bulk of the work done in the Institute. Accounting or other routine work is very small in comparison with research work. It is thus suggested that even in the Indian Statistical Institute, computer would have been used for other types of work, if such work was of sufficient volume to be done on computer and at any rate on that ground there can be no comparison of

Reserve Bank of India with the Indian Statistical Institute. Witness admits that the data has to be collected manually and has to be fed to the computer. It is only thereafter that the computer starts working. In terms of some of his statements in the examination-in-chief, the witness has indicated that he is clear that while doing the work manually there are certain limitations and when these limitations are exceeded, computer has to be used. One such limitation would be the magnitude of calculations and the possibility of error creeping in. Another is that there may be sudden influx and the result is wanted quickly. What is meant by quickness would depend upon the circumstances and this is admitted by the witness. In relation to balance of payments, he says that the current position could be of less than a week. Witness admits that balance of payments position is useful for planning the country's economy.

41.99 Answering questions regarding credit facilities, the witness says that credit is essential for improving productive capacity and the level of living of the small producer, whether in agriculture or in non-agriculture sector. Formerly, credit to the agricultural sector was given by individual money-lenders on high rates of interest, not within the reach of ordinary agriculturists, but now the banking net work in rural areas would be useful for agricultural credit and the same should be properly monitored. He admits that productive capacity and level of living could be improved if the banks in the rural sector are properly monitored, so as to ensure that the lower strata of the society are given proper credit facilities.

41.100 Pausing here for a moment, he virtually concedes one of the points made by the Reserve Bank, that sooner the results are obtained, the sooner is the possibility of penetrating the rural areas for banking operations, thereby ameliorating the conditions of the rural population. This itself would be a great achievement and for that purpose the financial position of the Reserve Bank should be clearly known and should be at the finger-tips.

41.101 Witness admits that at present, many of the banks are already doing their operations on computer. Similar is the case with a large number of industrial establishments. Employment in Reserve Bank could be 25 per cent of the employment in the tertiary sector. It is thus taken out from his mouth that already other organisations, particularly in the banking industry, are using computers and that has not resulted in lopsiding or totally imbalancing the economic structure. Witness admits quotations from Prof. C. R. Rao's book "Computer and Future of Human Society" to the effect that computerisation would expand data collection, work input and workout, processing work etc. enormously. It would expand employment more rapidly. Prof. Rao holds the Jawaharlal Nehru Chair. He is respected by the witness. But, according to the witness, the citations relate only to sample surveys, although it appears that there are no limiting words.

41.102 The witness admits Prof. Rao's quotations showing the need for computer not only for defence purposes, but also to improve our agriculture, to feed the teeming millions and to provide the people with the necessary comforts of life. He is virtually agreeing with the author's statement that computer is essential in Government offices for collection of information, storage and processing of data, as well as in waging war against crime, defending the country against external aggression etc. He, however, disagrees with Prof. Rao in encouraging the use of computer.

Resume of Oral Evidence

41.103 To take a resume of the oral evidence, it would appear that the witnesses other than Dr. Bose examined on behalf of the Association have mostly spoken about the procedure very often with particular reference to the office where they are working and, therefore, displaying ignorance about the magnitude of the work at other places. They have maintained that manual labour is an equal match to the machines and therefore there should not be any introduction of any machines. Apart from this slippery argument, it has been brought out that the employee-witnesses on behalf of the Association speaking on this aspect are not aware of the description or functioning of the different machines. It would therefore be difficult to hold the general proposition that machines would be doing work swifter. In fact, this is the assumption upon which every unions works when they canvass a situation of displacement and speak in terms of the poten-

tial loss of employment. It is Dr. Bose who has put forward the theory of no computer no machine on economic grounds which would be looked into in conjunction with the evidence given on behalf of the Bank where witness Iye has spoken in detail about the working of the Exchange Control Department and the need for computer for the voluminous work involved there. Witness Nair and Dr. Dample have spoken about computers and machines and Dr. Dample has indicated not only the function but the spheres of action where the machines could be used.

Some quotations relied upon

41.104 During the arguments, the Association as well as the Organisation flooded with a number of citations, Xerox copies or ordinary copies of such quotations have been taken on file. The central purpose of these quotations appears to be to show that in developing countries, where the economy has not progressed, use of computer would lead to unemployment. Some of the citations are based on automation. Therefore, they are not of much relevance to the work done in an office like the Reserve Bank of India. No material has been placed before me in support of the propositions made out in these books and no statistics helpful in deciding the present reference in connection with the Reserve Bank were made available to me. There was no question of scrutiny of the statements made and as such the citations remain as expressions of opinion by different authors. These citations only illustrate the stand taken by each party before me. I can only refer to a few of those passages.

41.105 On behalf of the Association, my attention was invited to a passage in the report of the Work Study Team on Automation (Office Automation) in Maharashtra State. The passage cited is from page 81, paragraph 6.2, which is as follows:

"In other words, on the general plan, the problem is not of those displaced today, but the millions who are unemployed waiting to be employed."

They have also relied on the note of Prof. N. S. Ramaswamy to the above Study Team, which reads as under:

"Looking it from the community point of view, the labour rendered redundant still continues to be a cost on the community if alternative productive employment is not possible. In India, we have 15 million unemployed today, and the absolute figure seems to be increasing every year, since the number of jobs generated by the economy, every year are less than the new entrants to the labour force."

Reference was made to Orme W. Phelps' "Introduction of Labour Economics" at page 420, where we find the following passage:

"If the demand for employees of all kinds is high, the absorption of the displaced men into other jobs will be relatively easy and frictionless. If it is low, unemployment will be aggravated by layoffs due to automation."

They have also placed reliance on Davis' "Human Relations at Work". The following passage is extracted from page 520:

"Automation clearly tends to eliminate more jobs than it creates in the office. While it is true that new jobs, such as programmer, are created, many more routine clerical jobs are abolished, making a net reduction in personnel in the office automated. One study of 19 computer installations reported that for every five office jobs eliminated, only one is created by automation. In one of these firms, two accounting functions have been put on the computer and 286 jobs eliminated. It is estimated that when the full computer system is completed in several years, about one third of this firm's clerical workers will have been eliminated. Another study of two installations reported reductions from 53 to 35 and from 39 to 22 workers, respectively. In both instances, the proportion of higher grade jobs was slightly reduced."

My attention was drawn by the Association to the book titled "Labour Economics and Social Welfare" by Dr. B. P.

Tyagi. Reliance is placed on the following passage at page 573:

"Automation is something which replaces direct manpower for mental or manual work or both by self-regulating machines. The logic underlying this concept is that human work makes two fundamental contributions to the process or production; (i) supply of physical energy; and (ii) supply and processing of information. Either of these functions or both could be taken over by machines with the help of current level of technology."

My attention was also invited to the work "Office Automation" by G. R. Terry. The passage relied on is at page 17, which runs as follows:

"Many are of the opinion that skill requirements will increase for most office jobs as a result of automation. From the overall viewpoint, this might be, but it is well to observe that many jobs of relatively small skill will remain. Certainly training and the need for proficiency in specific skills are emphasized by automation. The persons with no skill is hard put to find work."

Undoubtedly, the number of like some, monotonous tasks is reduced by automation. Much laborious and time-consuming office work is done by the machine. This is desirable from the social point of view and is a benefit to mankind. Many feel that we are at the beginning of what might be described as a second Industrial Revolution, which will substitute machines for human beings in performing mental drudgery, just as the first Industrial Revolution substituted machines for carrying out most back-breaking physical drudgery."

41.105A On behalf of the Organisation, a number of passages were cited. They first relied upon the report of the National Labour Commission. They also relied on President Kennedy's statement made on 15th February 1972, which is as follows:

"The major domestic challenge of 60's is to maintain full employment at a time when automation is replacing men. It is a fact that we have to find over a ten year period 25,000 new jobs every week to take care of those displaced by machines and those who are coming into the labour market."

They have also relied upon the statement in "Computerisation and Management in a Changing Society" by Donald H. Sanders to show that computers cannot replace people in the management process. They may be fantastic devices but for management process. They may be fantastic devices but not for management control. We may however, note the following passage at page 209 of the same book:

"Computers are not magic tools. You get out of them only what someone else has put in, and it takes a lot of manpower to introduce information into the system and to analyse what comes out."

My attention was also drawn to the following passage in "Modern Data Processing" by Robert R. Arnolds, Harold C. Hill, Aylmer V. Nicholls, dealing with the effect of computers on employment:

"A great deal of attention has been given in recent years to automation and its anticipated effects in our society. Views on this subject are widely divergent. One group contends that automation is really nothing very new, but is instead a much more advanced phase of the Industrial Revolution. Thus, it is regarded as a welcome source of many economic and social benefits. These include greater productivity and less waste, lowered cost of production, improved methods of doing things, creation of new industries and occupations, increased employment and more leisure. While recognising that various forms of automation will result in some immediate unemployment, this group assumes that the unemployment will be temporary and that in the long run the dislocated workers will be absorbed in new occupations as the result of an expanding economy."

An opposing group maintains that this optimistic outlook is wishful thinking based on economic promises of the nineteenth century that do not necessarily apply to present circumstances. This group believes that the changes taking place as a result of automation cannot be regarded as mere extensions of past technological progress. It is asserted that even though the long-range trend of nationwide unemployment is upward, the productivity of factories and offices is rising so much faster that the annual additions to the labor force are not being fully absorbed.

The difference in these views makes it evident that the ultimate impact of automation is uncertain. We can be certain, however, about some of the effects of automated data processing because they are already apparent. Therefore, let us consider some of the social implications of recent and imminent developments in data processing."

However, it is relevant to note how in the following few lines, the author pointedly deals with clerical work :

"In general, office clerks are the workers most affected by these trends. This does not mean that all people in clerical jobs will be replaced. There are certain to be some tasks that can be handled more practically by manual methods. Furthermore, clerks in some jobs may be easily retrained and shifted to work using the new systems. In fact, the displacement to date has been largely offset by the increasing numbers of people needed to handle the input and output information, to plan computer programmes, and to undertake the variety of services necessary to use computers effectively."

41.106 The Organisation is critical of the computer being employed for Exchange Control Department and compared it with the Management Information System. My attention was invited to the book "Computers and Management in a Changing Society" (supra). They also relied upon Reading 9 of the book to show that computers also fail. They referred to Reading 6, where there is a reference to a person who had a small magnet, with which he erased all data tapes. Replacement and reconstruction of records was very expensive and time-consuming. The book also refers to computer centres being bombed, flooded and destroyed by plane crashes. These are, however, not events of daily occurrence and while dealing with the subject, such rare events should not be taken into consideration. For that matter, the discussion on fraud being committed with the help of computer need also not be looked into.

41.107 On behalf of the Bank, my attention was invited to Chapter 20 p. 181 of the book "Economic Consequences of Automation" by Paul Einzig (1956 edition). The passages relied upon by the Bank read as follows :

"Beyond doubt, the problem of the high birth rate in many under developed countries is a grave obstacle to an early substantial improvement in their living conditions. Nor is there much likelihood of a solution of the problem or even of its material mitigation by an increased practice of birth control. The only hope is that, thanks to automation, the increase in the population may be outpaced by an increase in production."

"Even so, the idea that the maintenance of the standard of living above subsistence level for a few years would produce the desired effect on the birth rate should not be rejected out of hand, because in it lies the only hope of the greater half of mankind to achieve a decent existence. The argument deserves to be given a chance to prove its worth. This could only be done, if with the aid of automation, the supply of goods in backward countries were to be raised to such an extent that it would outweigh any rising trend in their population."

The Bank also placed reliance on Chapter 18.9 of the book "Automation in Business Industry" edited by Eugene M. Grabbe (1957 edition). The passage relied upon from this book is as follows :

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"But will automation lead to widespread unemployment? Certainly not in the long run. Technology has always created more jobs than it has destroyed and has made possible a continually expanding economy which has absorbed more than it has displaced. But these hit-and-run conversationalists confuse the facts further with dramatic remarks such as, 'We are not interested in the long run' we live in the short run; in the long run we'll all be dead."

"Automation of clerical work may well be much more rapid than automation of industrial jobs, for the number of office workers has grown 60 per cent in the last ten years. Management has an insatiable desire for information—if it is accurate, timely, and can be obtained at low cost. Data-processing equipment provide such information and may actually expand rather than contract clerical employment, just as mechanisation expanded employment in the automobile industry. Furthermore, office work is in an area of high natural turnover, and a large displacement can be readily absorbed."

Another passage relied upon by the Bank from the same book can be found at page 574 as follows :

"Too little attention has been given to the contribution automation can make to a fuller, richer life. Clearly, it can bring a higher standard of living and increased leisure. But it can also increase job satisfaction by replacing monotonous, dull jobs with challenging, meaningful assignments. Mass production has been criticised for degrading the worker, for replacing skilled craftsmen with machine tenders. Norbert Wiener in his book *The Human Use of Human Beings* has commented, 'It is degradation to a human being to hitch him to a plow and use him as a source of power. But it is an even greater degradation to assign him to a repetitive task in a factor which requires less than a millionth of his brain power.'"

The Bank further relied on the book "Computers in Management" by Ashok Malhotra. They have quoted the following passage from Chapter 2, page 50 of the book dealing with application of computers to business systems :

"Manual data processing systems, while providing economy, flexibility and adaptability at low data volumes become confused, inaccurate and slow when the volume of data becomes large and its creation complex. As an organisation expands in size and function, a state is reached when manual procedure become inadequate and inefficient. To co-relate data stored in thousands of files to yield meaningful information within a reasonable time becomes a Herculean task. No matter how many clerks are employed, a point is reached when it becomes impossible to systematise such a mammoth amount of information. What is required then is upgrading in the class of information-processing technology. In other words, management has, of necessity, to utilise a computer system."

A computer-based information system provides a number of important advantages over manual and even punched card data processing systems."

Finally, reliance is placed on the report of the Committee on Automation, 1972, published by Government of India, Ministry of Labour and Rehabilitation. Para 3.21 of the report reads as under :

"The table indicates that the computerisation of work has generally led to a decrease in employment in the affected departments, but this decrease has been more than offset by the increase in employment in the E.D.P. Sections, thus leading to an increase in total employment. Of the 24 organisations analysed, in eight there was a reduction of 547 persons out of a total of 6,690, i.e. about 8 per cent. In the remaining 16, the number employed increased by 900, i.e. by about 12.3 per cent. On an average, the employment in the departments affected by computerisation declined by 5.3 per cent. Taking into account the increase in the E.D.P. Sections, the net increase was of the order of 2.4 per cent."

41.108 In addition, we have to take into consideration the material put by the Bank to the expert witness, Mr. Bose, examined on behalf of the Association. Here was the opportunity for the witness to comment on the statements by applying his own mind. The views expressed in the two paragraphs of Prof. C. R. Rao's book "Computer and future of Human Society" are accepted by him. He disagreed with the statements in the third paragraph. The three passages that were put to the witness read as follows, in sequence:

- (a) "We need computers to guard our land frontiers and the land sea coast, save us from floods and fury of storms, defend ourselves against external aggression, improve our agriculture to feed the teeming millions, give the best education to our children, help in better medical diagnosis and save the lives of patients, and provide the people with the necessary comforts, facilities and opportunities in life."
- (b) "For the Government, the computer is essential for information, storage, processing and retrieval, in waging war against crimes, in catching tax evaders, in defending the country against external aggression, and in a variety of other ways."
- (c) "What are the effects of computers on society? Unemployment and displacement of labour could be avoided with planned and phased introduction of computers in different spheres of activity both in private and public sectors. The actual experience however, is that in organisations where computers are installed the employment rose up instead of decreasing since the computers are used for new types of work and not to do existing jobs. We must see that what is regarded as a threat is converted into an opportunity."

41.109 A look at the passages quoted above would show that the fear expressed by the Association and the Organisation is of general unemployment on the ground that the economic conditions of a developing country like India are not suitable for introduction of computer. On behalf of the Bank, the passages cited would show the utility of the computer in an expanding organisation and this has to be understood in the background of a developing country trying to vie with or trying to reach the stage of the developed countries.

The agreement:

41.110 During the arguments, Mr. Phadnis for the Association, made a reference to an agreement with the Bank. According to him, the Bank had agreed not to use the computer. Mr. Phadnis relies on the letter dated 8th February 1968 addressed by the Reserve Bank to the Association. But this cannot be considered as a bilateral agreement. The letter conveys of an assurance given by the Chief Manager of the Reserve Bank, when he met with agitation against installation of computer in the year 1968. The letter addressed to the Association speaks of two things. First, that the installation of the computer will not result in retrenchment of the existing staff or retardation of their promotional opportunities. Secondly, it says that the computers will not be used as a substitute for the work now being performed by the clerical staff. In the accompanying note, the management has said that not only the computer will not be used as a substitute for regular clerical work but its use will result in more employment. Now, Mr. Phadnis is interested in arguing that in view of the statement that computer will not be used as a substitute for clerical staff, the Bank should not be allowed to use any computer. In the first place, the statement, which Mr. Phadnis relies upon, was a unilateral assurance. According to the Bank still the assurance is not being given a go-by to. But it has to be understood that it was not an agreement. Even if it were an agreement, it was entered in the year 1968. Things have changed since then and it is within the competence of the Tribunal to see whether any such agreement or assurance should continue. Therefore, I do not think that this letter of the year 1968 will in any way come in the way of deciding on the policy now to be adopted regarding use of computers in the Bank.

The Machines sought to be used:

41.111 This will now be the fit stage to look in detail regarding the machines sought to be introduced a new by the Bank, its nature, function and utility. This can be done

usefully by looking to the contents of Annexure II and Annexure V attached to the supplementary statement of the Bank.

41.112 Annexure II of the statement of claim of the Bank gives some specific areas or items of work which could be handled with the help of machines/computer. Annexure V gives names of machines and the areas where they could be used. Section II of Annexure V gives the salient features and working of 11 machines. Co-relating these two annexures, we would be having the following picture:

1. In the Deposit Accounts Department, machines could be used to do the following work:

- (a) Posting of ledgers.
- (b) Posting of day book.
- (c) posting of statement.
- (d) Balancing of Ledgers.

This entry can be correlated with Sr. Nos. 6 to 12 of Annexure V and the names of the machines used for accounting would be as follows:

1. Blue Star—Ascota 170—Accounting Machine.
2. MCR 32—Accounting Machine.
3. NELCO-1000 Electronic Ledger Posting Machine.
4. PSI-MAD/ONE Data System.
5. PSI-MAD/TWO Accounting Machines.

These are described in the Section II of Annexure V at entries 5, 6, 7, 8 and 9. It appears that Blue Star Intelec-11 Banking Machine, NELCO-300 Business System and Philips PTS 6000 Bank Terminal System are similar machines but their description is not given in this Section. It appears that Philips PTS 6000 is more sophisticated and is not available in India at present. The function of all these machines appear essentially the same. Ascota Accounting Machine, entry No. 5 in Section II, Annexure V is said to be essentially a ledger posting machine. Mr. Pai for the Bank had argued about the general features, alleged advantages and the uses of the machine sometimes with the help of Mr. Rao. I was also shown and explained the working of the machines listed in my note at Exhibit 72 together with the advantages. On the basis of the arguments for the Bank, I asked for a note on these aspects embodying the case for the Bank. The information is as follows:

Ledger Posting Machines

A. General features of the Machine.

- (i) The machine is divided into three parts, namely, the carriage, keyboard and electric typewriter.
- (ii) The processing of ledger and statement can be done simultaneously.
- (iii) It is equipped with an electric typewriter which takes care of the narration as and when required.
- (iv) It is also equipped with a device where totals and balances can be figured automatically.
- (v) It has removal from bars which allow flexibility to fit the machine equally for different applications.
- (vi) It has a delete entry key for correcting wrongly fed entry.
- (vii) The machine is capable of computing interest products also.
- (viii) It has power fail safety device. Data is retained in memory in case of power failure. Inventory can be optionally attached to keep the machine in use of power failure.

B. Advantages of the machine:

- (i) Each ledger-keeper will be able to post 300 vouchers in 1 1/2 to 2 hours. Therefore, even if all the vouchers are released by about 3 p.m. the ledgers will be ready by 4.30/5.00 p.m. and the Staff Officers Grade A will be able to complete ledger checking before 6 p.m.
- (ii) "Side by side posting" can be adopted and the posting of the ledger card and daily statement can be done simultaneously.

(iii) There will be a proof sheet behind the ledger card. This proof sheet need not be removed as and when the ledger cards are removed. Postings made in the cards are automatically recorded in the proof sheet also. Suppose a machine is used for scheduled banks' accounts, the total of the 'Dr' and 'Cr' columns of the proof sheet represents the aggregate amount of vouchers posted in all the ledger cards. The proof sheet serves as a day book and there will be no need to write the day books. There will thus be simplification of work to a great extent as the writing of day books and daily statements will be entirely eliminated.

(iv) By depressing a day, we get the balances, 'Dr' and 'Cr' summations. The work of the ledger-keepers will be made easy.

C. Benefits to the employee.

- (i) Method of doing work made easy.
- (ii) No monotony.

D. Benefits to the Bank.

- (i) Balancing rendered quick and easy.
- (ii) Improved customer service.
- (iii) Simplification of work procedures.
- (iv) Saving in space with improved layout.
- (v) Closing of the departments in time.

E. Use of machines.

This machine would be used to advantage in the Current Accounts Section of the Deposit Accounts Department in maintaining ledgers. It can also be used in other departments of the Bank such as, Clearing Section of the Public Accounts Department by suitably programming it.

41.113 Next we come to Public Accounts Department, where the machines could be used for the following purposes:

- (a) Receipting Cash challans.
- (b) Writing of scrolls/statements.
- (c) Sorting and listing of inward/outward clearing cheques.

From Annexure V, Serial numbers 3, 4, 9 and 10, we find that Kelvinator of India Ltd. 'Registerex' Cash Register Machine and Bradme Cash Register 2020, NELCO-300 Business System and PSI-MAD/ONE Data System are the machines that could be used for this purpose. It appears from Section II of Annexure V that item No. 3, NCR Teller Machine and Item No. 4, NCR Class 22011 Proof Machines for sorting cum listing can also be used there. In fact, it was argued that for improvement in the Clearing Section item No. 4 was most important. The general features, use, benefits together with general benefits to employees of these machines are shown as follows:

Teller Cash Registers

A. General features of the Machine

- (i) Simultaneously validates challans (4 copies), printing, scroll number, date, account number, type of account, machine code, mode of payment and amount paid.
- (ii) Provides a complete record of all registered transactions.
- (iii) Automatic change computation.
- (iv) Recall cash facility.
- (v) Item repeat facility.
- (vi) Display of the figure one in front of the Teller and the other in the rear for the customer.
- (vii) Analysis of the transactions. At the close of collection hours it prints department/accountwise totals and grand totals.
- (viii) Cash control and efficient operation.
- (ix) Security.

B. Use of the machine.

The machine can be used in the Cash Receipt Counters. It can also be used in the Clearing Section of the Public Accounts Department for bankwise/accountwise listing of cheques.

C. Benefits to the customer.

- (i) Reduced waiting time.
- (ii) Neat and clean receipt.
- (iii) Security against malpractices.

D. Benefits to the employee i.e. Teller.

- (i) Elimination of receipting the challan, affixing the 'Cash Received' stamp.
- (ii) Elimination of writing his register.
- (iii) Elimination of signing the challan.
- (iv) Reduced fatigue.
- (v) Reduced chances of making mistakes.
- (vi) Easy cash reconciliation.

E. Benefits of the Bank.

- (i) Improved customer satisfaction.
- (ii) Improved security.
- (iii) Better supervision and control.
- (iv) Easy cash reconciliation.
- (v) Convenient classification of transactions department-wise.

Sorting-cum-Listing machines

A. General features of the Machine

This machine, apart from having a listing mechanism, has pigeon holes for sorting the cheques bankwise and account-wise. The machine provides for a consolidated list and account-wise figures for each bank.

The NCR Company have recently introduced one more machine viz 6780 reader/sorter which economically configures for banks processing as few as 60,000 items per day or as many as 7,50,000 items per day. It has a 24 pocket system which reads and sorts documents at a speed of 1200 items per minute.

B. Use of the Machine.

This machine can be used to great advantage in the Clearing Section of the Public Accounts Department for sorting and listing the cheques and balancing of inward and outward clearing.

41.114 It seems that item No. 11 in Annexure V, Section II, the machine called Kardveyer 4370 can also be used in this Department. Its general features, use, benefits, etc. are stated as follows:

A. General Features of the machine.

- (i) It is available in sizes to match the Bank's card requirements and can solve many filing problems. It has a capacity to make cards of size 13 inches x 5 inches. There will be 24 trays which can take in approximately 24,000 cards. Its maximum capacity is 40,000 cards of smaller size 5 inches x 3 inches.
- (ii) It makes it possible to have the records in seconds by just pressing a button and thus saves a lot of time spent in searching for records.
- (iii) It causes no fatigue in searching out the required card, as the operation is simple.
- (iv) It will be a compact work station, housing all the information without occupying much space.
- (v) It runs efficiently on a 1/4 h.p. motor and is very economical on power consumption.
- (vi) In case of power failure, it can be operated manually.

B. Uses of the machine.

The machine could be used with great advantage in the Public Debt Office and the Public Accounts Department of the Bank. In the Public Debt Office, documents are received for registration. These documents are registered in books called 'Power Registers'. When Government securities bearing

endorsements/discharge made by attorneys/persons on behalf of corporate bodies/co-operative institutions/firms as also individual holders are received for any purpose, it is necessary to find out whether their powers are registered with the Bank. A reference therefore, has to be made to the Power Registers. The Bombay Office has more than 20,000 such documents registered in the books of the Public Debt Office and it takes considerable time to locate the relative power registers as there are nearly 350 such registers. Similarly, in the Public Accounts Department which deals with Government transactions, there are as many as 500 specimen signatures of drawing officers who draw cheques on the Bank and also encash cheques. If Kardvayar Units are introduced in Public Accounts Department and the Public Debt Office, it would help in retrieving the information quickly thus resulting in saving of time and better customer service. This unit could be used in the Department of Banking Operations and Development also for maintenance of town cards for about 30,000 branches of commercial banks.

41.115 We then move to the Public Debt Office where machines are shown to be useful for preparation of interest warrants. Public Debt Office figures in Annexure V at Sr. No. 2 and Sr. No. 9 showing the use of Kardvayar Machine and Nelco-300 Business System, a sort of ledger posting machine. Both the machines have been described above.

41.116 We then come to Issue Department where the work to be done is listed in Annexure II, as follows:

- (a) Counting of fresh notes/coins.
- (b) Examination, verification and destruction of soiled notes.
- (c) Personal ledger accounts of chests, notes and coins.

Issue Department, as such does not figure in Annexure V, Section I. But from the argument, it could be gathered that for counting of notes, there could be a Note Counting Machine and for destruction of soiled notes, what is asked for is a shredding machine. At present, after examination when the notes are withdrawn from circulation, they are to be burned so that they do not go in the market again. It has been said and admitted by all the parties concerned that the volume of the soiled notes in vaults has reached such a frightening magnitude that the working in the Department can almost be reckoned as a health hazard. If this is so, there is all the more necessity for its destruction. The destruction now suggested is by shredding i.e. cutting the notes to small length-wise pieces so that the note cannot be used any further and on the other hand the shredded mass could be utilised for pulp.

The note counting machine, its general features and advantages are mentioned as follows:

A. General features of the machine.

It is a table top design model used for counting of notes. If counting is done continuously without break the machine can count 6,000 notes per hour.

B. Advantages of the machine.

- (i) relieves monotony.
- (ii) simplification of work.

There is no description available of the shredding machine.

41.117 Next we come to Department of Expenditure and Budgetary Control and Department of Currency Management. The work to be done in these departments is as follows:

(i) Accounts Section:

Reconciliation of inter-office transactions.

(ii) Currency Section:

- (a) Analysis of data for formulation of schemes etc. for the disposal of notes under Modified Procedure.
- (b) Results of detailed examinations of all the chests remittances/banks tenders.

(iii) Establishment Section:

- (a) Provident Fund Accounts.
- (b) Payment of salary, maintenance of Housing Loan Ledgers, etc.

(iv) Foreign Section:

- (a) Analysis of investments made
- (b) Research in making forecasts.

(v) Central Accounts Section:

Completion and reconciliation of transactions and finalising the accounts.

This will correspond with entries at Sr. No. 5 and Sr. No. 12 of Annexure V. The machines to be used will be Bradma-PF Data Writing Machine and Philips PTS-6000 Bank Terminal System. The second machine is already looked into. The first one is understood to be a machine for repeatedly writing the addresses only. It is not specifically described under any of the items in Section II of Annexure V.

41.118 Then we come to Department of Administration and Personnel Policy Department where the work to be done is as follows:

- (a) Skills inventory system for the officers.
- (b) EDP for Personnel Administration.
- (c) Manpower Planning Studies.
- (d) Management Information System.

Although the work is specified, no particular machine appears to have been listed against such work in Annexure V. This may perhaps have to be taken with the exception that the Gastetner Electronic Stencil Cutter will be required for all the departments. The features of this machine are as follows:

A. General Features of the machine.

(i) It is designed to reproduce anything from the original without blocks, proof reading or processing or use of any chemicals or chemicalised particulars or plate.

(ii) It is fully automatic, nothing to regulate. Simplicity is the key note of this machine. Simply by fitting an original, copies can be had.

(iii) It is swift, simple and economical.

(iv) It gives quality stencils to print hundreds of copies instantly from a wide range of originals and printed matter, typed letters and documents, cuttings from newspapers and magazines, drawings, plans, sketches, forms and even hand-writing.

(v) It can be operated any where and no special arrangements like air-conditioning are required.

(vi) The original will not be affected after the reproduction process.

(vii) Reproduction is possible on any kind of paper from the roughest to the finest available in the country.

(viii) There is no limitation as to the number of copies.

B. Use of the machine.

This machine can be used in all the departments of the Bank as every department requires copies of papers.

41.119 Next is the Department of Banking Operations and Development and the work to be done is data processing of statistical/statutory returns received periodically. This will correspond with Sr. No. 2 of Annexure V and the machine to be used will be Ramington Rand Kardvayar 4370. This machine has already been described earlier.

41.120 In the Industrial Finance Department, the work to be attended to is as follows:

- (a) Preparation of industry-wise, state-wise classification in respect of various types of credit institutions in respect of outstanding guarantees, claims paid etc.
- (b) Analysis of accounts in default, state-wise/industry-wise for the purpose of preparing reports for local board.

Industrial Finance Department corresponds with item No. 2 in Annexure V and the machine to be used is Kardveyar, which has already been explained earlier.

41.121 Coming to Reserve Bank of India Services Board and Recruitment Sections of offices, the item of work to be done is scrutiny of applications and tabulation of results of the various competitive examinations, etc. In the Department of Non-Banking Companies, the work to be attended to is processing of the statistical data of the annual surveys of deposits with the non-banking corporate sector from the statutory returns submitted by financial companies and copies of the returns received from the non-financial companies. When comparing with Annexure V, it is seen that none of these have been mentioned in the Annexure.

41.122 As regards Exchange Control Department, the duties mentioned as in Annexure II are as follows:

- (a) Processing of GR etc. forms
- (b) Data processing of 'R' returns and other statements received from authorised dealers, airlines/shipping companies, etc.

This will correspond with item No. 2 of Annexure V and the machine to be used will be Kardveyar, which is already looked into.

41.123 In the case of Premises Department, the item of work is structural design calculation and PERT programmes. In the case of Economic Department, the duties mentioned are as follows:

- (a) Processing and tabulation of data relating to balance of payments, banking statistics.
- (b) Preparation of bank-wise and state-wise lists of defaulting offices of banks in connection with BSR returns.
- (c) Processing of data collected under the Census of Commercial Banks Advances classified according to securities.
- (d) Building up of files on month and annual data on different items of RBI Balance Sheet and similar other data for forecasting and projection of monetary variables by the Monetary/Banking Divisions.

Although the duties involved have been mentioned as above, no specific entry is found in Annexure 'V' except entry No. 9 i.e. NELCO 300 Business System which could be used for all departments. The working of that machine has already been looked into.

41.124 In addition to these, at the time of arguments, reference was made to two more machines i.e. Forklifts and Conveyor belts. As the names suggest, one is for picking up load and taking it to different places for stacking, placing or piling and the conveyor belt would be used for passing material from one place to another. The function is thus of common understanding. It appears that probably, these two machines could be used in the Cash Department.

SUMMARY

41.125 The opposition to computerisation is based on the ideology that computerisation will lead to unemployment. The thesis that computerisation will lead to unemployment rests on the presumption that automation and computerisation are synonymous. The various quotations cited by the Association in support of their contention are view points on the impact of automation.

41.126 Automation on the one hand and computerisation in the context of its application in Reserve Bank of India on the other, are not at all synonymous. One basic feature of automation is its 'feed back' control system. This self-regulatory, self-correcting capability is an essential requirement of an automated process and it is this capability which gives rise to the vision of unemployment as a result of automation. Such automated processes find their application in industrial production system, in which there are parameters whose values are required to be maintained within specified

limits. Any violation of the limits of the parametric values could have harmful effects on the production. Continuous monitoring of their values and introducing corrective measures as and when required are of utmost importance in such production processes. In production processes, automation could result in replacement of the human agency which, otherwise, was required to monitor the parametric values and control the system.

41.127 This, however, is not the case in using computers for data processing in the office environments. Even in the 'Operational work' in the Bank, there is no situation, where the computer will get the 'input' automatically. Similarly, the computer 'input' would not flow into the 'office process' unless it is caused by human effort. In other words, the computer in the data processing environment, will remain an efficient tool which has to be put to use by the human agency and not an equipment which will replace the human agency in the production process environment.

41.128 Repeated contention that use of computers in data processing would reduce job opportunities to the extent that a day might arise when hardly any white collared worker would be required is not fully correct. Whether it is in research or analysis or in operation spheres, follow up action and analysis of feed backs provided by the computerised information system would have to be done manually. Thus, for example, the scrutiny of the error list printed out by a computer system (which has to be done with reference to the original documents) issue of reminder letters for non-submission of returns and duplicate or triplicate copy of export forms or non-compliance of instructions, etc. would generally have to be done manually. Logically, therefore, computerisation in data processing should lead to all-round stimulation in employment in some sectors at least. In this connection it may be noted that the consensus of a seminar held at New Delhi in November 1978 on the Impact of Computers on the Statistical System in India, organised jointly by the Central Statistical Organisation of the Government of India, Planning Commission and the Indian Statistical Institute, and attended by planners, academicians, administrators, etc. was that since computers would expand data collection work, input work and output processing work enormously, it would rapidly expand employment.

41.129 In respect of the Reserve Bank of India, it is said that computerisation has generated employment opportunities since the installation of Honeywell-400 computer in 1968; the total strength of the Machine Section (Unit Record Equipment Section) has increased to almost 100 per cent. Similar is the case with the Data processing Division, which looked after the systems analysis, Computer programming and computer operations functions relating to the Honeywell-400 computer. It has been said that the number of higher level posts has also gone up significantly, indicating that the computer has increased the promotional avenues. This increase is the increase in 'direct employment'. There have been increases in the staff strength in other divisions of the Department of Statistics and also in other department of the Bank which prepare computer inputs, process and edit reports and work on the analysis of final print-out given by the computer. There is no reason to doubt these statements. It becomes evident therefore that there would also be a 'multiplier' effect on employment in financial institutions, research establishments and Government offices as a result of the computer being put to its full use in the Bank.

41.130 Apart from the fact that the Bank is the leading institution modelling fiscal policy of our country, its progressive working is bound to create more opportunities particularly in the field of first priority sector of agriculture and in the second priority field of industry. In relation to international business, more so regarding export, the case made out by the Bank is much to be looked into in detail. Shri Pal argued that in the Exchange Control Department, computer is needed for quicker follow-up of exports, for preparing the country's balance of payment data, to ensure that the country does not lose any foreign exchange and there are no malpractices on the part of the exporters. The export forms, namely, the GR/EP/PP forms which are in triplicate are received by the Reserve Bank in the following manner. The original is received from the customs or postal authorities, as soon as export is made, the duplicate is received from the authorised dealers after the documents are negotiated by the

exporter with the authorised dealer the prescribed period for negotiation being 21 days from the date of export, and the triplicate is received after the export proceeds are received by the authorised dealer, the prescribed period for realisation being 180 days from the date of export (except in some cases). The duplicate and triplicate of the export forms are sent by the authorised dealers along with the 'R' returns which are submitted to the Bank once in every 10 days. These export forms are coded and the information is fed into the computer. The computer can match the original, duplicate and triplicate forms and it can also print out cases where the duplicate or the triplicate form has not been received within the prescribed time. The Bank can make use of the computer print out for follow-up action. The follow-up action of issuing reminders to the authorised dealers will be done manually. The export forms are source material for compiling the country's balance of payments. The balance of payment statistics which is a very important document for planning as also obtaining credit from International Monetary Fund and World Bank is now available only with reference to March 1979 which means that the data is more than 2 years old. It is necessary that the Bank should have an up-to-date balance of payment position for assessing the country's needs. The foreign exchange receipts through the export forms are very necessary items in the balance of payment statistics and unless the Bank has the latest figures in regard to the foreign exchange received through export, it is not possible to have the latest balance of payment data. Hence it is very necessary that the Bank should use the computer for follow-up work in the Exchange Control Department. What the Bank wants to do is not substitute manual work but assist the employees to expedite the follow-up work.

41.131 Neither Shri Phadnis nor Shri Devidas Pai has denied that there is fast increase in the volume of data received in the Reserve Bank. Shri Phadnis's main objection to the mechanisation and computerisation is the growing unemployment in the country. It is the case of the Association that staff provided for dealing with the export forms is not sufficient as compared to the growth in the volume. The Reserve Bank has filed statement showing the staff strength of the export division in various offices of the Bank during the past 10 years. From that it is seen that there has been considerable increase in the staff as compared to the export forms. Immediate need of the Bank is to utilise the computer for the purpose of matching and merging and taking quick follow-up action. The Bank wants to match and merge the original, duplicate and triplicate of export forms on the computer and wants to use the computer print out to send reminders to the defaulting exporters and authorised dealers who have not sent the duplicate or triplicate of the export forms. The follow-up action will help the Bank to ensure that foreign exchange is received in the country within the time prescribed and that there are no malpractices. Further, the prompt receipt of the three copies of the export forms is necessary for compilation of the balance of payments statistics. Considering the importance of the foreign exchange reserves for the country's development, it is necessary for the Reserve Bank to take quick follow-up action. In view of these statements this becomes a case where volume and rate of input can not be coped up by more men. Quality will not be obtainable by employing more labour and the use of computer. In fact in terms of Prof. Rao's agreed statement in paragraph 2 at page 45 of his book 'Computer and Future of Human Society' the improved quality of work in Exchange Control Department would be helpful in reducing the gap between India and other advanced countries.

41.132 The other field of operation where on arguments I was impressed of the need of some speedy machines or even a mini computer, as Mr. G. B. Pai has put it, was the Clearing House. On this subject, the counsel for the Bank while putting forward the necessity of a sophisticated instrument argued that in the Clearing House the use of computer is very essential as at present the Bank has not been able to have more than one clearing at many of the places and the clearing house does not balance for 5 to 6 hours. The computer that will be needed in each Clearing House will be a small one. The computer will be indigenous and will not be very costly. The use of the computer will increase employment as 5 to 6 people will be required to man the computer. Shri Phadnis has argued that the Clearing House function involves typical checking of the instruments and that the Bank has not shown to the Tribunal that with the present system it is impossible to handle the workload. For the Organisation Shri Devidas Pai has argued that even Dr.

Damle, the witness of the Bank has accepted that the Clearing House work can be done even without a computer. Dr. Damle, the witness of the Bank has stated in his affidavit that in yester years the Clearing House used to meet three times a day at 11.00 A.M., 1.30 P.M. and 3.30 P.M. clearance being for return of unpaid instruments and new-a-days at Bombay the 3.30 P.M. clearance is abandoned because the main clearing is not balanced in time to enable the Banks to participate in return clearance and at some other centres, the Bank has not been able to have more than one clearing and thereafter, the fate of the cheques presented could be known earliest by next day and may be in most cases after two days. The witness has stated that various suggestions have come up including opening of more clearing houses, introduction of night clearance and so on and all these seem to be impracticable because of non-availability of fast processing system and use of computer handling of cheques as is done in the West and that computerising the clearing house operations would enable completing the processing of clearing house adjustments in about 45 minutes to one hour and consequently there can be a reintroduction of the return clearance meeting and also additional meetings for suburban branches. The witness has stated that in 1970-71 at the Bombay Clearing House an average of 13,342 cheques were cleared per day while in 1979-80 the figure has gone up to 48,958 cheques per day.

41.133 Witness No. 6, Shri K. C. Poddar for the Association has spoken about the clearing house in paragraph 8 of his affidavit. He has not disputed that the clearing house which used to meet 3 times a day earlier, now meets only once and there is long delay in balancing. In his cross-examination he has mentioned that 70,000 instruments are cleared every day in the clearing house and that it takes 2 to 3 hours for inward clearing and about 4 hours for outward clearing.

41.134 In my opinion, the use of small computers for the Clearing House operations would be undoubtedly in the interest of the general public as they can get their cheques realised faster. It will help the business and the industry also. Question of loss of employment does not seem to be appearing and in any case what is in the interest of country and business is in the interest of all. Now, what is asked in relation to Clearing Houses situated at every branch office of the Reserve Bank is that there was necessity for a computer or a small machine which could be termed as a mini computer. This mini computer, it is understood, differs from a large computer because it is not a sophisticated instrument. It is a table model with a small capacity, programmed for specific type of work either by the manufacturer or by the user and, therefore, useful only for the limited jobs. In technical language it is said that it has a simple technology based on chips. It is, therefore, cheap, easy for handling and may stand office environment. Looking to the confused way in which the Clearing Houses are at present functioning, it appears that the assessment made by Mr. Pai looks correct and the remedy will be in the nature of allowing a mini computer for the purpose.

41.135 The case of the Central Accounts Section where reconciliation is to be done is almost on par with the clearing house so far as the use of a mini computer is concerned. The work of reconciliation and remaining up-to-date instead of having large arrears is useful for country's economy. A mini computer would help doing it. In the case of gauging the requirements of chests much unhappy position prevails now. Instead of the two ideal remittances per year there have to be frequent remittances. Proper planning appears impossible in the present circumstances. If the supply from the presses is erratic all the more need to conserve and regulate what is available and that need can be understood precisely by taking recourse to modern progressive methods. Mini computers appear to be the best answer to these problems. What is said by me about mini computer applies with equal force to machines that have been referred to in the discussion. They are bound to provide good aid in disposing of the work with speed and preciseness. For the reasons discussed the logic of unemployment need not deterus from utilising them.

CONCLUSION

41.136 Coming to the end of the discussion, therefore, it is apparent that the opposition for introducing any sophisticated computer or using the existing one fully or using advanced machines is all round and is based, at least so far

as the present reference before me is concerned, on the general economic policy of India. It is feared that persons with low education cannot adjust themselves to the use of sophisticated machines. They would, therefore, be rendered service less or job less, creating problems of unemployment. We need not feel called upon to look to the general effect of introducing computer or machines in all industries. If the machines are introduced in the Reserve Bank of India, at the most they will be introduced in other banking concerns. As it stands, as per the statement of the Reserve Bank of India, a number of commercial banks have adopted sophisticated machines and some of them are getting the work done on computers. If this is so, there is no reason why Reserve Bank of India should lag behind.

41.137 The argument that the work will increase also is weighty. It is not necessarily in terms of the manual work done in particular departments but I am thinking in terms of the entire business of the Reserve Bank of India. As has been discussed earlier, the Bank has diverse obligations and is working in different fields. The amelioration of the down-trodden helping them in making agricultural lands more productive or more profitable, giving openings to persons for getting self-employed or employed in industries started indigenously is the avowed objective of the Indian economy. It is the Reserve Bank of India which could help it to a large extent. If the Reserve Bank is able to have quicker administration, there would be increase in business, more openings for banking in rural areas, increase therefore in the banking activities and also corresponding rise in the work of Reserve Bank of India, so as to absorb more labour. In other words, even assuming that in future work of some employees is taken over by a machine and such employees are rendered superfluous, apart from their getting alternative employment or allied jobs, because of the condition of no retrenchment, after introduction of machines or computer the business would also increase manifold, and such employees would get some other job, not because they are to be given some other job but because job opportunities would increase, and in fact more persons can be absorbed. That is to say, more manpower would be required and that could be a very good fillip to economy in the application to Reserve Bank of India. The Bank has stated that there will not be any retrenchment. That looks to be an essential condition upon which use of computer could be allowed. The matter has to be handled not only from the technical and economic point of view but from the institutional point and in that light the Reserve Bank of India comes up for a favourable treatment. The opposition could be psychological. There could also be political considerations, let alone the social considerations, for opposing mechanisation and computerisation. But that could be contained by saying that there would be minimum displacement. It is high time that our economy must be geared to accept mechanisation and taste the fruit of progressive better living. Since the job opportunities in the Reserve Bank of India would not decrease because of the likely all round increase in work, using computer or allowing the use of sophisticated machines would not harm the general economy of the country. In fact, I feel that we should not entangle ourselves in considerations of the general economic position of the country, but restrict ourselves to the situation available in Reserve Bank of India. Looking to that field of operation, or the area of use of computer or machines, I am inclined to allow use of computer and sophisticated machines in the Reserve Bank of India. Out of abundant caution however such use should be conditional, the conditions being that there will be no retrenchment and the displacement would be minimum. The expression minimum displacement could be a subject of controversy. There cannot be any hard and fast rule to define minimum displacement. It will depend upon the circumstances as to what in a given case is minimum, but as a workable rule if the displacement is not more than 10 per cent of the existing strength, it should be reckoned as minimum displacement. It is on these conditions, that there will be no retrenchment and there will be minimum displacement that I allow the use of different machines referred to in the statement of the Bank as well as allow the fuller use of the computer which is already existing in the Garment House. On the same conditions the Bank can use the mini computer especially in the Clearing House and Central Accounts Section or even for Inventory Control. It looks advisable, however, to find out how the things shape up. Therefore, the Bank should be prohibited from using any more sophisticated computer in the next 3 years. However, worn out parts of the present computer can be replaced or peripherals may be changed. In view of this discussion, the answers

to the issues framed would be that more machines as referred to in the statements of the Bank can be used by the Bank in different departments. The present computer can be also used by the Bank to the full extent and, therefore, also for operational or enforcement purposes. As regards more computers, excepting the mini computers, I am not in favour of allowing the use of any further sophisticated computer for a period of 3 years. However, worn out parts could be replaced or peripherals may be changed. The above noted use of machines and computer would be on conditions that there would be no retrenchment that is to say, no person would be asked to go home because of the introduction of mechanisation or computerisation and that the displacement will be at the minimum level.

CHAPTER XLII

Item No. 29—Wasteful and Restrictive Practices.

Item No. 30—Work allotment to employees in exigencies.

Item No. 31—Work Procedure and Work norms.

42.1 The Bank, the Association and the Organisation have filed statements on these matters. Other Unions are supporting the Association and the Organisation. The Bank, in its statement of claim dated 20th July 1981, submitted that although the items raised involved management function under which the Bank has a right to issue directions to the employees, the Bank has raised these issues before the Tribunal so that the directions of the Bank are not thwarted by the employees or by associations on their behalf by raising industrial disputes. It is the submission of the Bank that it being basically a service institution, it has to render efficient service to the Government departments, banks and members of general public. For this purpose, the Bank has to review the existing work practices/procedures and it becomes necessary to deploy or re-deploy staff in such a manner as to get the maximum output by way of service. However, any step taken by the Bank is thwarted by the employees Association. The Bank has enclosed Annexures III to V showing the instances of wasteful and restrictive practices adopted by the employees.

42.2 According to the Bank, the consolidation of evening balances in the Cash Department in majority of the offices is done by one or two Coin/Note Examining. However, recently employees in some of the offices e.g. Jaipur and Madras have stopped doing the consolidation work. Under compelling circumstances such as, power failure or failure of Punching/Stitching machine, the Bank, of its own, reduces the quota of work in the Note Examination Sections. However, of late, the employees have been insisting on reduction in quota even on frivolous grounds or in cases where there is power failure before the start of the office hours. In case of remittance duty, the employees are allotted remittance duty for accompanying the remittances to the chests. However, in many cases, the employees refuse to go on remittance duty merely because the destination is not of their liking. They demand exemption and are willing to go on next remittance if the place suits them. It is, therefore, necessary that the employees accompany remittances to the centre, according to their turn and are granted exemption only under circumstances which are beyond their control. In some of the branch offices, the floating staff are not allowed to work overtime when overtime work is allotted in the section to which they are attached on that day.

42.3 It is the statutory obligation of the Bank to maintain adequate stock of notes and coins at the various currency chests. Therefore, these currency chests are periodically fed by sending remittances of notes and coins and such remittances are normally booked by train. However, at places where the currency chests are not connected by train or the train route is a circuitous one, it becomes necessary to send the remittances by road. It is the experience of the Bank that employees insist on travelling by train for remittances even though the distance by road is shorter and convenient. 30th June and 31st December, being Bank holidays under the Negotiable Instruments Act and there being no public dealing, the public counters are kept closed. The staff manning the counters however refuse to do other work on these days. It is necessary that they perform such other work that could be allowed to them. Similarly, many times Stenographers refuse to do typing work allotted to them when the officers with whom they are attached are on tour, leave etc.

42.4 If the wasteful and restrictive practices are curbed by introducing simplified procedure, the customer service

could be substantially improved and the Bank as public institution would be able to render better and efficient services by re-distributing the work to the staff according to the exigencies of work. After referring to the cases reported in Parry & Co. 1970 II LLJ, 429 and Ghatge & Patil Pvt. Ltd., 1968 I LLJ, 566 and three other Supreme Court decisions that the management has a right to manage its business and it is not open for the workmen to state how the management should carry on its business as long as the business is carried on within the framework of law, it is the submission of the Bank that it has a right to take steps to remove wasteful and restrictive practices and to allot work to employees in exigencies and it is not open to any employee or association of employees to object to the same. The employees, however, have been stalling the efforts of the Bank by raising industrial disputes. The Bank has, therefore, demanded a direction from the Tribunal that it has a right to remove wasteful and restrictive practices and to allot work to employees in exigencies and that it will not be open to any employee or association to object to the same.

42.5 In connection with work Procedure and Work Norms, it is the submission of the Bank that the Bank has to take periodic review of the existing work procedure for maintaining efficient public service. As for evolving work norms, they have been quantified only in the Cash Department and in the Note Verification Section of the Issue Department where the work consists of counting and verifying of notes. However, in other operational departments of the Bank it is possible to fix work norms on the basis of average output of instruments normally expected of an average employee for a full day. Similarly, work norms could be fixed in respect of staff attached to Machine Section.

42.6 On the basis of a detailed study conducted by the Bank into the working of the Cash Department, it had come to the conclusion that there could be an upward revision of the existing quota for examining the notes in the Cash Department. With a view to implementing the same, a notice of change under Section 9A of the Industrial Disputes Act was issued. However, due to the All-India Reserve Bank Employees' Association raising an industrial dispute over the matter, the matter was taken in conciliation by the NLC(C) which resulted in a failure. The Bank has given the following reasons for upward revision of the quota for note examination:

1. Work in the Examination and Verification Section is usually completed in about 4 hours on week days and 2 hours on Saturdays although the working hours are 6-1/2 hours for week days and 3-1/2 hours on Saturday.

2. They present quota of work was fixed in the year 1937 and thereafter except for a marginal increase in the year 1949, there has been no change at all.

3. It is provided in the Cash Department Manual that in respect of Rupee one and Rupee two notes, the quota of 8,000 could be increased to 10,000 where sorting of re-issuable are not done. Therefore, when no sorting is done in respect of other denomination notes, the quota of work in respect of these denominations also be increased.

4. From 1956 onwards, stitching and punching of notes is done by electrically operated machines which has resulted in considerable saving of time.

5. With the improvement in the quality of paper used for printing of notes, it has become easier to handle notes and therefore, more work could be done.

6. With the improvement in the working conditions in the Note Examination and Verification Sections, the staff could do a higher output.

42.7 In Annexure VII of the statement of claim dated 20th July 1981, the Bank has set out certain tentative norms in respect of the employees working in other operational departments such as, Public Accounts Department, Deposit Accounts Department, Public Debt Office, Exchange Control Department, etc. and has demanded that the norms indicated in the Annexure be approved by the Tribunal.

42.8 The Bank has therefore sought direction from the Tribunal that the points covered by the item are purely a managerial function and the Bank should have a right to evolve suitable norms of work and that it should not be

open to any employee or association of employees to object to the same.

42.9 In its detailed statement of claim dated 10th August 1981, the Association has disputed all the contentions made by the Bank and has stated that the Bank should not have the right to issue any order to the employees or right to issue any directions to the employees by amendment and change in their service conditions and/or change of customary practices and usages. In fact, it is the submission of the Association that the Bank is attempting to change the service conditions under the cover of "growing economy of the country and better services to the Government, banks and the general public". According to the Association, whatever may be the role of the Bank, it does not get any authority to alter the service conditions of the employees unilaterally or arbitrarily. Section 9A of the Industrial Disputes Act puts fetters on the Bank's discretion to effect any change in the service conditions of its employees. The intention of the Bank is to secure a right to completely wipe out the existing stability of the employees in the departments and to displace employees from one department to another in the name of exigencies of work. The objectives for which the Bank has been established and the duties which it is to perform, cannot be achieved by the methods explained by the Bank in its statement of claim.

42.10 The Association has disputed the applicability of the cases cited by the Bank to the present items before the Tribunal. According to the Association, in the present case, the Bank is aiming at reducing the staff potential and staff strength by adopting novel methods of simplification of procedure and re-organisation of work. In the name of efficiency, prompt customer service, etc. the intention of the Bank is to beat the employees with the whip of deployment from one department to another, change in the procedure of work and increase in the quota, etc.

42.11 Dealing specifically with the various submissions made in the statement of claim dated 20th July 1981 by the Bank, it is the submission of the Association that the Bank's claim that the management has a right to issue any direction or order to the employees irrespective of the fact whether it is reasonable or not is not correct. Such medieval and autocratic concept of management functions are quite outmoded and in sharp contradiction with the change in social values and declared objectives. According to the Association, it is inconceivable that the employees of Reserve Bank should be treated as bonded labour compelled to carry out any order or dictum of the higher ups irrespective of its merit, legality or reasonableness. If the Bank is to sure that the law allows it the absolute and unlimited power, then there is no point in raising an industrial dispute on these items and ask the Tribunal to adjudicate the same. The Association has alleged that since mid-1960's, the Bank, in the name of better customer service and increase productivity, has been taking certain steps which are bound to endanger the job security of the employees and the job potential of the institution. At the same time, efforts are being made to eliminate the jobs of this institution itself by transferring the same to other national institutions or by forming separate and independent corporate bodies to the detriment of national economy and interest of the employees of the Bank.

42.12 The Association has denied that either the Association or any of its members have followed any of the wasteful or restrictive practices enumerated in Annexures III to V of the Bank's statement of claim. The Association has submitted in its statement of claim, Annexure D, in formation regarding the allegation made by the Bank about counting of notes and other allegations. The Bank's allegation in paragraph 4, 5 and 6 have been dealt in Annexure E of the Association's statement, dealing with the work allotment and re-deployment of staff, movement from one section to another, allotment of work in exigencies, etc.

42.13 According to the Association, almost in every department of the Bank, work procedure in the form of 'manuals' and 'book of instructions' are in vogue. Hence the functions of various departments are based on standardised operations. Changes in the system follow as and when there are amendments in various regulations and enactments and such books of instructions and manuals are revised accordingly. In fact, in the name of better productivity, economy and efficient customer service, the Bank has been increasing

workload without assessing need for such increase and without taking into consideration the new constraints which develop in the work process. According to the Association, the subjectivity of the Bank's decision lies in its pre-conceived decision to computerise the above operations in a gradual and steadfast manner. Therefore, the Bank started harping upon implementing the concepts and mechanisms of method study, job flow analysis, merit rating, evaluation of work norms etc. If the demand of the Bank is conceded it will result in elimination of job potential, unreasonable per capita increase in work load, cause surplusage of staff involving labour redundancy and evaporate job potential. Therefore, the Association is strongly opposed to such changes in the work procedure and denies that the existing procedure is unnecessary, unproductive or counter productive. The Bank is seeking to change the existing officially accepted work norms on the ground that there is low out turn of work and the other plea that the conditions of work have undergone much improvement. According to the Association, owing to the intense complex nature of the job elements and mental efforts required in the process of work, quantifying work norms in respect of clerical work can never be concretely feasible. In this connection, it has referred to the observations of Aiyar Arbitrator at page 188, paragraph 3.6 where it was envisaged that the industry of banking is not concerned with production of goods and thus, no norm could be fixed. Therefore, the Association has demanded that the Bank should be restricted from implementing the contemplated proposal regarding change in work procedure, effecting simplification and quantifying work norms at the cost of labour.

42.14 Referring to the demand of the Bank for increase in the quota of work in the Note Examination Section, the Association has submitted that the recommendations, of the two specialised bodies cited by the Bank are subjective as a major part of the work required in the job process is of mental nature. Further, in the first case, the investigator being an outsider and having no experience of financial and banking operations, may be deemed as incompatible to carry on the assignments according to the accepted norms of such work study. In the second instance, the investigator being an ex-official of the Bank belonging to the higher management level, he may not have been in a position to foresake his bias in the managerial interests with which he was once intimately involved. According to the Association, the recommendation of the two investigators are contradictory in nature. Dealing specifically with the Rao Committee, which observed that the normal time taken in the Note Examination Sections ranged from 4.25 hours to 5 hours whereas the total working hours of the Class III employees are 6-1/2 hours, the Association has stated that the very nature of job process needs at least 1 hour 20 minutes in the normal circumstances to start the examination process. This time is needed to perform certain pre-requisites such as marginal adjustment in the inter-sectional manning, indents for work to be placed with the vault according to the work potential of the Sections and receiving the tenders from the vault and transporting the same to Note Examination Sections, etc. At the close of the Section, time is taken by the Assistant Treasurers to receive back notes from each Group Supervisor and to perform other work which are obligatory in nature, which would take 20 to 25 minutes. The average time taken by the examiners for processing of notes is approximately 2 hours 45 minutes to 3 hours in each session of work. In fact, according to the Association early closing of the Note Examination Sections is the result of the Bank's officials asking the employees to complete their work earlier and the psychology of the employees to come out of the confinements of the Section at the earliest. In this connection, the Association has referred to the office order issued by the Currency Officer, Nagpur, on 1st October, 1975 and another office order dated 12th July, 1976 issued by the Hyderabad Office wherein the employees were advised the time by which they should complete their work. The Association has given the following reasons for not accepting the demand of the Bank for increase in the quota of work in the Note Examination and Verification Sections:

- (i) The quota of work has been fixed on the basis of the Issue Department Manual, which has been revised in 1972, updating various instructions on procedural matters, and it maintained the existing rate on the basis of certain objective realities.
- (ii) There has been no significant and perceptible change in the said realities since then.

(iii) Instances of early closure of these sections at some of the Bank's offices and the logic of available working time is attributable to the causes explained in the preceding paragraph.

(iv) Cancelled notes, after being stored in the vaults for a considerable period of time when subjected to verification becomes highly susceptible to wear and tear. For this particular feature, the notes need much careful handling and several times of counting at times, to ascertain the correct result. It is equally applicable to cheques also. This has increased with the deterioration in the quality of paper and presently.

42.15 According to the Association, there is no scope for any increase in the quota of work. On the other hand the conditions are such that the existing quota should be reduced. It has given the following reasons for reduction in the quota in the Note Examination and Verification Sections.

1. The Issue Department Manual has been updated in 1972 and since then there has not been any significant change in the situation so as to invoke a drastic change the work norms.

2. The quota of 10,000 pieces for examination of Re. 1 and Rs. 2 notes as in the manual is applicable only to non-issuable chest notes. This quota has however, no relevance to higher denomination notes.

3. The electro-mechanically operated punching and stitching machines, in effect, have not saved time more than marginally. The frequent breakdown of these have not been accounted for by the Bank. In reality, it creates bottlenecks in the process of operation.

4. The quality of paper used for printing has not improved rather it has gone down.

5. The working conditions in the Note Examination Sections and Verification Sections have not improved. The Sections remain as congested as ever. In fact, Association's repeated requests for smaller Sections and smaller ratio of working hands and group supervisors, are yet to be acceded to by the Bank.

42.16 In view of the above, it is the submission of the Association that the proposal of the Bank for increase in quota in Note Examination Section cannot be accepted and that the Association's demand for decrease in quota should be given a thoughtful consideration. As regards work norms for Class III employees working in other offices/departments, it is the submission of the Association that all clerical operations are comprised of such job elements like inspection, comparison, verification, calculations, etc. which require much mental effort and as such cannot be subjected to any principle of job evaluation. The proposal made by the Bank reveals the unfair labour practices of the Reserve Bank management.

42.17 According to the Association, if the present working of the Bank is compared with various activities of the Bank 10 years back, it would be seen that in the departments of the Bank today, the employees are over burdened with work because of the responsibilities cast on the Bank by the Government, Planning Commission, public at large and rising economic trends in the present politico-social system of the country. This increase in work volume is however not been reflected in any manner in the present staff strength. The intention of the Bank is to impose further workload, and as such, the Tribunal should not give permission for the same. If granted, it will lead to further retrograde steps taken by the Bank which will be contrary to Article 42 of the Constitution of India. Therefore, the Bank's demand should be rejected in toto and no direction should be given.

42.18 According to the Organisation the fact that the Bank's efforts to remove the wasteful and restrictive practices and to allot work to the employees in exigencies have been stalled by raising industrial disputes clearly indicates that the Bank does not any legal right in this matter. The statement of the Bank that they have exclusive power to change or amend the Bank's work and at the same time giving notice of change under section 9A of the Industrial Disputes Act,

is contradictory. Therefore, it is the submission of the Organisation than the demand made by the Bank be rejected as it is not within the jurisdiction of the Tribunal to give such direction.

42.19 On merit, the submission of the Organisation is that the issues raised by the Bank under these items are Bank's own creations. It has recognised the All India Reserve Bank Employees' Association as the recognised union by ignoring the norms laid down by National Commission on Labour even though the Association is not at all representative in character as is clear from Bank's own submission. Further the Bank has failed to evolve uniform and scientific procedure of its work and has proved to be incapable of implementing the procedure laid down in the Bank's manuals which clearly reflects administrative incapacity of the Bank's management. To cover up its own inefficiency and failure, the Bank has approached the Tribunal for direction under the guise that the employees are responsible for the state of affairs. The issue raised by the Bank are not general in nature but are complaints, that too regarding one or two offices of the Bank especially Calcutta Office. Thus it is not fair on the part of the Bank to bring such issues before the Tribunal. As the Bank has not suggested any agreed scheme for approval, it is the submission of the Organisation that the Tribunal need not give any direction as demanded by the Bank.

42.20 As regards work procedure and work norms, it is the submission of the Organisation that the Bank's contention for raising such demand is to increase work load on the employees especially in the Note Examination and verification Sections. The Bank has conceded the importance of the co-operation of the employees and the unions but without the active participation of the employees in evolving scheme for work norms and work procedure, the entire process becomes the futile exercise. Therefore, in the opinion of the Organisation, it is not within the jurisdiction of the Tribunal to grant exclusive right to the Bank.

42.21 As regards the demand of the Bank for increasing the quota for Cash Department and Verification Section, it is the submission of the Organisation that the Bank is following modified procedure in respect of the Note Examination Section of the Cash Department and the proposal of increased quota will only change the ratio of notes dealt by counting and examination and the notes directly destroyed without counting and examination. Therefore, it has termed the Bank's proposal as absurd.

42.22 According to the Organisation the Bank management had requested the Desai Tribunal for directions in favour of the Bank to increase or fix such quota of work for an employee as would normally keep him busy for 64 hours of day. However, by paragraph 18.2 of Award, this demand was not considered. In 1976, the Bank gave the notice under Section 9A of the Industrial Disputes Act which was taken in conciliation before the Regional Labour Commissioner by the Organisation. It has referred to the papers prepared by Prof. S. S. Kshirsagar in a seminar organised by National Institute of Bank Management in August 1975. Criticising the Bank's submission that employee in the Cash Department finish their quota in 44 hours when the normal office hours are 64 hours, the Organisation has submitted that in case of piece rate system the work is bound to be completed earlier than the scheduled time and thereafter the workers are allowed to go home. It has referred to report of National Commission on Labour (1969), about the piece rate system prevailing in Bengal and Assam and where there are no rigid rules regarding the hours of work. According to the Organisation, within the normal working of 64 hours, if the employees do not complete the quota within 44 hours, the timely closure of the vault and the Department becomes impossible and the detailed staff has to work overtime. It is for this reason that the Bank management itself insists on the present work to be completed within 44 hours so as to facilitate the timely closure of the vault and the Department. According to Annexure 3 of the Organisation's statement of claims, after completion of the note examination work, time is required for consolidation of notes and their handing over, consolidation of bundles, packets of cancelled notes etc. and taking over of the balances by the vault officers and depositing them in the vault. Thus in order to facilitate the timely closure of the vault and the Department, the present quota of work for the employees in the Cash Department was fixed. Even otherwise the employees of the Cash Department

have to work under grave risk because the papers which they handle are not the ordinary papers but the currency notes which bear value and put pressure on them. In addition to this, he has to complete his work in 44 hours to facilitate the timely closure of the vault and the Department. Therefore, the Bank's proposal to increase the quota without any corresponding and proportionate compensation by way of overtime allowance or additional remuneration is blatant exploitation of the workmen employees.

42.23 It is the submission of the Organisation that the reasons adduced by the Bank for making a case for quota increase are not sound and do not provide any base for the demand. According to the Organisation, accumulation of currency notes beyond reasonable limit cannot be a valid reason for forcing the quota increase. The proper suggestion would be the augmentation of the staff strength. The examination of higher denomination notes involve high responsibility. Hence greater care is required in case of these notes. Further the Bank insists on pattern-wise sorting of notes. Therefore, the analogy of Re. 1 and Rs. 2 notes cannot be applied to these notes. The introduction of the electrically operated machines has nothing to do with the manual examination of the notes. On the other hand, the noise created by these machines adversely affects their efficiency and it is a hazard in the form of noise pollution. The quality of paper used in printing of notes does not in any way help the examination of the notes. On the other hand, the notes received in the section are always soiled and therefore the quality of paper is irrelevant. According to the Organisation the working conditions in the Examination and Verification Sections have become worse in view of the atmosphere prevailing there and the lacuna in the security arrangements. Therefore, it can be stated that there is a strong case for decrease in the quota rate in the Note Examination and Verification Sections.

42.24 The Organisation has demanded that in the absence of proper justification for the norms of work in other operational departments, the Bank's demand be totally rejected.

42.25 The pleadings therefore, disclose that the unions are fighting the issue with the Bank on the grounds of service condition, customary practice and lack of agreed scheme particularly in respect of the quota for counting notes or the closing time of the Cash Department depending upon the closing time for the vaults. From the long statements it would appear that, the parties were very keen in discussing these subjects. During the time of the argument, however, it was noticed that the subject did not appear as important as when the statements were put on it. Mr. F. D. Damania, learned counsel for the Bank categorically stated that they are not suggesting any norms or they are not giving any list of restrictive practices. They are only interested in getting the quota of note examination raised as already Section 9A notice is given and roughly 25 per cent increase is asked. According to him the quota was fixed in 1937 with a marginal increase in 1949 and it is found that the employees doing that work are free at about 4.00 P.M. in Bombay and similarly early at other places, having finished their quota, which is outdated. According to him other norms and restrictive practices fall in the managerial functions and the Bank only expects some observations or guidelines from the Tribunal on these topics but not any express directions. As a matter of fact, similar items were discussed before the earlier tribunals also and no definite directions were given.

42.26 At present, we are having some further material on that point. On restrictive practices, in the bilateral settlement of October 1979 of commercial banks, the parties agreed to adopt a joint declaration as per Annexure I to the Settlement. The annexure lists a number of restrictive practices. Although on behalf of the labour it was said that at no time they had taken recourse to any such restrictive practices, they were one with the management in condemning the practices noted in the annexure. Similarly, the Working Group on Customer Service in Banks which was appointed by the Government of India has made a report and paragraph 120 of that report runs as follows :

"Unhealthy work practices or behavioural patterns which have crept into functioning of banks must be identified and eradicated. Some of the restrictive practices are listed in Annexure I, Chapter III."

The Annexure is found at page 47. It consists of a list of restrictive practices. Look at paragraph 14, page 63 of Annexure V

to the Report would show that the Government of India accepted para 120, though not the Annexure. In view of the stand taken by the Bank and in view of my accepting the contention that it is mainly a managerial function to take appropriate steps for eradicating malpractices, this Tribunal can in no uncertain terms condemn the restrictive practices which are mentioned as illustrations in the annexures either of the Report or of the Bilateral Settlement. I need not list them but like the Government of India, I can also say that the parties ought not to resort to such unhealthy behaviour. On such matters it is the function of the management to lay down rules or give orders and as long as they are reasonable, no employee can afford to commit breach of them.

42.27 As regards the question of quota of notes to be examined by the Coin/Note Examiners in Cash Department, there was slight excitement in the argument. It appears that it is in the year 1976 that the Reserve Bank served a notice under section 9A of the Industrial Disputes Act for raising the quota, which according to the Bank is fixed many years back and circumstances have changed. A look at Annexure VI would show that the counting of the notes are contemplated in 3 categories viz. examination and counting of fresh notes received from the currency note presses, examination of notes in the Note Examination Sections and verification of notes in the Verification Sections. The first one relates to finding out whether correct packages are received from the currency note presses, the second one relates to sorting out the notes into soiled, forged and reissuable notes. The third relates to the operation subsequent to the second operation. So far as the category one is concerned work is done quickly and certifies extent the work in category there is also quicker. Category 2 is the important category and depending upon the value of the notes, probably including the sepe of responsibility the quota differs from denomination to denomination so that higher quota of 8000 pieces with sorting for reissuables, 10,000 without sorting for reissuables, is fixed for Re. 1 and Rs. 2 notes and lower quota of 4000 pieces is fixed for Rs. 5, 10 and 20 notes. The lowest of 3500 pieces is fixed for notes of higher denominations. That distinction is also made in the qualitative and quantitative examination in the third category. So that for quantitative examination the quota is from 14000 pieces to 20,000 pieces ad for quality and quantity examination the quota is of 10,000 pieces for Re. 1 and Rs. 2 denomination and 5000 pieces for Rs. 5 and above.

By and large, the Reserve Bank has suggested an increased of 25 per cent in all the quotas. According to the Bank, the quotas fixed has become outdated and visibly the Coin/Note Examiners of the Cash Department are seen stopping their work nearly 2 hours before the scheduled hour of closing of work. By way of random sample, a file pertaining to this issue for the year 1975 is placed at my disposal, when possibly it is said that the present dispute was not conceived, showing how in each office each examiner completed his work much before the scheduled time.

42.28 On behalf of the Association, it is said that there is absolutely no need to change the quota. The Organisation goes a step ahead and says that the quota should be reduced. It is said that the persons working in the Cash Department are working with pressure, responsibility already exists and therefore, it will be cruel to raise the quota. The argument of the Organisation that inspite of good quality paper there should be no appreciable change in counting of notes because the notes come very much soiled and that the working conditions are not without any lack of security so that a man cannot work properly, do not appear to be convincing, nor do I think that even after the award the working conditions would remain the same. As regards the pressure, except the factor of responsibility inter-linked with the job, I fail to appreciate the source of pressure. One that was sought to be represented on their behalf, viz. closing of the vaults would really work against them. It was said that because the persons in charge of the vaults desire to go in time and because the notes are required to be kept in the vaults which take considerable time, work has to be finished sufficiently in advance before the expected close of the vaults. It is because of this, something like target time, that the persons work with pressure. In other words, had the persons not worked with pressure, they would have given the same quota with ease. In this connection it was argued on behalf of the Bank that they will take care that the examination or verification of the notes is not required to be finished because of the excuse or difficulties in connection with the vaults. The

examiners should do their work unmindful of the vault situation and, therefore, should be able to work till the closing hours of the office. In case no such considerations due to closing of the vaults are kept, there should be really no reason why the Coin/Note Examiners should not be able to give more out-turn. They seem to have made a fatish out of it and a matter of wrong prestige to say that they cannot give more outturn. I do not appreciate the argument that the employees are working under pressure. If that is not so and if the time as seen in the file which is nearly 2 hours in advance of the closing time, then they should be able to give a proportionately more outturn for the 2 hours which they now find spare. The expected rise of 25 per cent in the quota in this context would not look unsuitable. Making however an allowance for the mental attitude of the examiners on this point and making allowance for the so called pressure, I think there should be no reason why the quota should not be increased by 15 per cent at least. I would give such a finding with liberty to the Reserve Bank to consider the situation afresh when need arises. After all, even this is one of the managerial functions. So far as the present item of the reference is concerned on the express basing that the Coin/Note Examiners are not asked to work with an eye on the closing of the vaults, I say that the Reserve Bank is entitled to raise the quota of each category by 15 per cent subject to their studying the position and making further changes by following the appropriate procedure.

I am aware that much of the rigour in the arguments will be lost when machines are introduced for counting of notes.

CHAPTER XLIII—MISCELLANEOUS ITEM NO. 35—DATE OF EFFECT OF THE AWARD OF THE NATIONAL TRIBUNAL

43.1 Award Part-I was operative from 1st September, 1978 in respect of items specially listed, which includes Family Allowance. The other portion was operative since 28th September, 1979. I do not want the present Award to be retrospective, except for the item Family Allowance to Ex-servicemen which should bear the same character as it did in Award Part-I. Therefore, my conclusions regarding Family Allowance to Ex-servicemen will be operative from 1st September, 1978. I am expecting to finish Award Part-III by 5th December, 1981. Award Part-II and Part-III therefore should be operative from the next date. Therefore, excepting Family Allowance for Ex-servicemen the remaining portion of Award Part-II & Part-III will be operative from 6th December, 1981. The Family Allowance for Ex-servicemen will be operative as from 1st September, 1978.

COSTS

43.2 The Co-ordination Committee, the Ex-servicemen Welfare Association, Scheduled Castes/Scheduled Tribes Federation, Cash Department and Karmachari Federation have given applications asking for costs. It appears that the Bank has met the travelling charges and disbursed Dearness Allowance to the representatives of the Association and Organisation. It also appears that the Karmachari Federation has been given some assistance by the Bank by way of halting expenses. Now each of the applicants is asking for costs on various counts viz. Travelling, Conveyance, halting expenses, costs of stationery, typing, legal fees and loss of leave and leave without pay. The demand runs into thousands of rupees. A small tabulation of the amounts asked for by each applicant is as follows:—

Sl. No.	Items	Ex-servicemen	Karmachari Federation	Cash Dept.	SC/ST
		Rs.	Rs.	Rs.	Rs.
1.	Travelling expenses	1,960	65,05	—	17,500
2.	Halting expenses	4,825	—	—	—
3.	Conveyance expenses	1,152	—	350	—
4.	Costs of stationery, typing, cyclostyping, zeroxing, etc.	400	3,718	1,500	5,100
5.	Legal fees	3,000	16,500	12,500	10,500
6.	Loss of leave & leave without pay.	—	5,100	—	11,000
Total		11,337	31,823	14,350	44,100

Co-ordination Committee did not give any such break up.

The point involved is regarding the legal position for giving such costs. By my order dated 19th February, 1980, I disallowed travelling and halting allowances to be paid to the claimants by issuing directions to the Bank.

43.3 Industrial Tribunal derives power to grant costs from sub-section (7) of Section 11 of the Industrial Disputes Act. A discretion is granted under the Section to award costs. But the discretion is to be exercised judiciously. In this particular case the Reserve Bank though it has paid costs to the Association, Organisation and partly to the Federation as and when they incurred the same. They have objected to pay any cost to any others. It does appear little unnatural that the Bank is giving monetary assistance in the nature of costs to 3 Unions on different considerations. It is given to the Association because it is the recognised body. It is given to the Organisation because it figured at the time of conciliation. The logic is acceptable so far. When they give some cost to the Karmachari Federation because it was one time a party in another arbitration is difficult to comprehend. Apparently, there are some other considerations for giving them such costs, and the treatment given to others looks discriminatory, nothing in favour of the Bank can at all be said about it. I wish they had been uniform or they had acted on some sound understandable principle. But the position will have to be gauged from the legal point of view and not by way of giving any penalty to the Bank for its preferring some unions.

43.4 The very nature of industrial arbitration and more so at the hands of a National Tribunal when employees from all over India are affected, is sorting out the dispute between the institution and the employees. Both are ex-facie equally interested. The institution must put forward its view point and the employees through their representatives would be doing the same. For reasons well-known and indicated by me while disposing of the applications to add parties all those who are given audience to address the Tribunal are expected to help the Tribunal at various stages of hearing and for the disposal of the matter. It cannot be said in the least any such Union has acted dishonestly, any Union was not of any help to the Tribunal or that anyone has misused that opportunity. Each of the parties allowed to address and appear has acted in the best interest of their members and to the best of their abilities. But when it comes to granting costs, it will have to be seen whether it works on sound principles. On the one hand it could be said that perhaps without the assistance of those parties, full justice may not have been done, but on the other hand it could also be said that the Bank should not be penalised for getting that assistance.

43.5 On behalf of the Reserve Bank of India, it is said that an intervenor is not entitled to any cost. In this connection, reliance is placed on the decision reported in A.I.R.-1942-S.C. 27 *Megh Raj V/s. Allah Rakha*, where the observations at page 33 are as follows:—

"As already stated, the Government intervened in this litigation by its own choice and no reason have been suggested in the High Court's judgment nor was any shown before us to justify a departure from the usual rule that the Intervener is not entitled to costs".

43.6 The Bank also relies upon the decision reported in 1952 (II) L.L.J. 1 *United Commercial Bank Ltd. V/s. Sri K. S. Campbell-Puri*. The observations at page 4 are as follows:—

"The union which has been formed for the purpose of collective bargaining is for the benefit of the employees and for promotion of their interest. It is the employees who are the members of the union. If the employees have decided that they will be represented in the proceedings by certain selected representatives of the employees, I fail to see on what reasonable principle the employer-banks can be made liable to pay the expenses incurred by these representative employees".

Therefore, it is argued that the general rule is that the unions should normally bear their own costs.

43.7 The Bank has also pointed out the decision in 1957 (I) L.L.J. 455 *Punjab National Bank V/s. Industrial Tribunal, Delhi and others*. The observations at page 459 are as under:—

"The circumstance that the banks are well organised and their managements are in possession of resources cannot be a ground for making them pay for the expenses of the other party; if that is the principle to be applied, then in every case the richer party must be made to pay the expenses of the weaker party, irrespective of the ultimate result of the dispute; even in a dispute raised by the workmen which may be ultimately found to be devoid of all merit, the employer must be made to finance the workmen. Such a principle will merely encourage frivolous and unsubstantial disputes and will run counter to the object and purposes of the Act, namely, the promotion of industrial peace in the interests of the general public. The second circumstance that the adjudication is a compulsory adjudication applies equally for the employees, it is equally so for the employer and we can see no reason why that circumstance should involve the imposition of a penalty on one of the parties to the dispute and not on the other".

Thus, the Supreme Court decision clearly shows that unless there are sound reasons, the employer cannot be mulctated with costs.

43.8 In *Delhi Cloth Mill Chemical Works V/s. their workmen 1960 (II) I.L.J. 449* the observations at page 450 are as follows:—

"It must not be forgotten that the present dispute is supported by a trade union and under S. 15(c) of the Indian Trade Unions Act, 1926, general funds of a registered trade union can be legitimately spent in the prosecution of defence of any legal proceedings for the purpose of securing or protecting any rights of the trade union or of its members".

This would show that the Punjab High Court has not treated the trade unions on a higher pedestal than the party to the litigation.

43.9 In this connection, it may also be remembered that at the time of Desai Tribunal or at the time of Aiyar Award, no costs were granted for counsel fees or other items. Working arrangements were made on the directions given by Desai Tribunal at the preliminary stages, regarding bearing of certain costs. This would not however be a precedent to say that decisive directions could be given when the Bank on its own volition has not come forward to accept the burden.

43.10 In nut shell it could be said that in cases of this type where both the management and the unions are vitally interested in examining, assessing and marshalling before the Tribunal all salient features or points in issue of a dispute the parties are to be treated on equal footing for costs unless there is reason to hold that frivolous points were made out. In such circumstances, it cannot be said that one party is successful or the other party is unsuccessful. In a way it is a collaborative effort of all in arriving at the true position and ordinarily question of granting costs would not arise. I, however, earnestly feel that the management should dispassionately consider the cases of such of the representatives of the different Unions, who have given specific applications before me for costs and who have attended the Tribunal's hearings, coming from a long distance for ex-gratia payment and/or considering their absence as leave. No order as to costs. -

EPILOGUE

43.11 The proceedings lasted for a very long time. The Reference had a chequered career. After the initial stop because of the stay order from the High Court at Calcutta, I had to look to the agreement entered into by two parties, pending reference. Concentration then was on the efficacy of the agreed items. The entire argument and discussion was on finding out the beneficial effect of the agreement. When items in Award Part-II were taken up for

discussion, arguments were directed in securing different concessions or benefits to the employees, although the Bank was interested in getting their stand clarified on different topics. Here also there were lengthy arguments. The IIIrd Part of the Award deals with a controversial topic. Although some machines are used by the Bank and the Bank does utilise one computer, much energy was spent on speaking of the general condition of our economy and the plight of labour if computer and other machines are employed by the Bank. The parties made a strenuous attempt in putting forward their claims. In spite of all this pressure on time and industry I got full co-operation from every counsel, the representatives of the employees, as well as my staff. Without that what I have done in the time available to me, which is proved to be short would not have been possible. I, therefore, extend my thanks to each and every person who has lent his hand in this matter. I had full assistance from Mr. G. B. Pai and Mr. F. D. Damania, counsel for the Bank and also from other Officers of the Bank viz Mr. N. V. Sundaram, Mrs. Mayura Padmanabhan, Mr. N. V. Deshpande, Mr. M. A. Batki, Mr. S. C. Gupta, Mr. K. A. Najmi and Mr. N. S. G. Rao, Mr. Gupta having been placed at my disposal for some time and Mrs. M. Padmanabhan at the time of Part-III Award. I value the assistance of Mr. Phadnis for the Association together with the team of his workers viz Mr. N. C. Das, Mr. Ashis Sen, Mr. T. K. Ghosh, Mr. R. S. Valanju and Mr. N. D. Deshmukh. Similar is the case with counsel Mr. Dudhia, Mr. Devidas Pai and Mr. Gadkari with the team of workers viz Mr. A. N. Moharir, Mr. M. V. Pathak, Mr. L. K. Pande, Mr. R. N. Bhargava, Mr. G. S. Deodhar, Mr. V. G. Saravate, Mr. R. V. Narnaware, Mr. V. Bhaskar Rao and Mr. V. Siva Prasad. I also value the assistance from Ex-servicemen, Mr. S. P. Palanivelu and Mr. P. G. Sadvilkar who took pains to reiterate their whole case even after Part-I Award was given. I must express my gratitude to every person in my office, who has not shirked from giving whatever help I required.

C. T. DIGHE, Presiding Officer
National Industrial Tribunal,
Bombay.

[No. L-12025/21/79-D. II. A]

New Delhi, the 4th January, 1982

S.O. 150. In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Madras, in the industrial dispute between the employers in relation to the management of State Bank of Travancore and their workman, which was received by the Central Government on the 28th December, 1981.

BEFORE THIRU T. SUDARSANAM DANIEL, B.A., B.L.,
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
TAMIL NADU

(Constituted by the Government of India)

Industrial Dispute No. 71 of 1981

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of State Bank of Travancore, Trivandrum.)

BETWEEN

The workmen represented by
The Assistant Secretary,
State Bank of Travancore Employees Union,
C/o State Bank of Travancore, Broadway,
Cochin-682011.

AND

The Managing Director,
State Bank of Travancore,
Head Office, Trivandrum-695001

REFERENCE :

Order No. L-12012/38/80-D.II(A), dated 17-9-1981 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on this day for disposal upon perusing the reference and all other papers on record in the presence of Thiru M. Thomas Aquinas for Thiruvallargal Devadasan and Sagar, M. Thomas Aquinas and K. M. Vairavan, Advocates for the Management and the Union being absent, this Tribunal made the following.

AWARD

This is an Industrial Dispute between the workmen and the Management of State Bank of Travancore, Trivandrum referred to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in Order No. L-12012/38/80-D.II(A), dated 17-9-1981 of the Ministry of Labour, in respect of the following issue :

"Whether the action of the management of State Bank of Travancore, Trivandrum in terminating the services of Sh. P. P. Baby, Part-time Sweeper, Thiruvankulam with effect from February, 1979 is justified? If not, to what relief is the workman concerned entitled?"

(2) Parties were served with summons. On 31-10-1981 the Union did not appear and file claim statement. The Management was represented by counsel. Their fresh summons was issued to the Union for appearance and filing claim statement on 18-11-1981. On 18-11-1981 also Union was absent and no claim statement was filed or received. Again, the case was posted to 30-11-1981, 7-12-1981 and lastly on 14-12-1981. Union which has raised the dispute had already been duly served on 26-9-1981. In spite of several adjournments, no claim statement has been filed by Union or received in this Tribunal. Vakalat for Management had been filed on 13-10-1981.

(3) In the circumstances in as much as no claim itself has been made before this Tribunal on the issue referred, award is passed holding that no relief can be granted. No costs.

Dated, this 14th day of December, 1981.

T. SUDARSANAM DANIEL, Presiding Officer.

[No. L-12012/38/80-D.II(A)]

N. K. VERMA, Desk Officer.

CORRIGENDUM

New Delhi, the 16th December, 1981

S.O. 151.—In Notification No. A-42011/36/81-Fac. dated 4th September, 1981 published vide S.O. No. 2482 in Part II-section-3-sub-section (ii) of the Gazette of India, dated 19-9-1981 the following corrections are published for general information.

Page No.	Col	Line	For	Read
3148	2	5 and 9	state Officer	Estate Officer
148	2	4	Institute	Institutes
		(2nd Col. of the Table)		

[A-42011/36/81-FAC]

GOPAL SINGH, Section Officer,
For Under Secy.

नई दिल्ली, 18 दिसम्बर, 1981

का.प्रा. 152—मैसर्स दि यूनाइटेड वेस्टर्न बैंक लिमिटेड, 172/4, रविदार पेट, शिवाजी सर्किल, सतारा-415001 (जिसे इसमें इसके पश्चात् उक्त स्थापन कहा गया है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 17 की उपधारा (2क) के अधीन छूट दिये जाने के लिये आने देन किया है,

और केन्द्रीय सरकार का समाधान हो गया है कि उक्त स्थापन के कर्मचारी किसी पृथक अविवाय या प्रीमियम का संदाय किये बिना ही, भारतीय जीवन बीमा निगम की सामूहिक बीमा स्कीम के अधीन बीमा जीवन के रूप में फायदा उठा रहे हैं और ऐसे कर्मचारियों के लिये ये फायदे उन फायदों से अधिक अनुकूल हैं जो कर्मचारी निक्षेप सहबद्ध बीमा स्कीम, 1976 (जिसे इसमें इसके पश्चात् उक्त बीमा स्कीम कहा गया है) के अधीन उन्हें अनुज्ञेय है,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (2क) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए और इससे उपाबद्ध अनुसूची में विनिर्दिष्ट शर्तों के अधीन रहते हुए, उक्त स्थापन को तीन वर्षों की अवधि के लिए उक्त स्कीम के समी उपबन्धों के प्रवर्तन से छूट देती है।

अनुसूची

1. उक्त स्थापन के संबंध में नियोजन प्रादेशिक भविष्य निधि प्रायुक्त, महाराष्ट्र को ऐसी विवरणियां भेजेगा और ऐसे लेखा रखेगा तथा निरीक्षण के लिए ऐसी सुविधाएं प्रदान करेगा जो केन्द्रीय सरकार समय-समय पर निश्चित करे।

2. नियोजक, ऐसे निरीक्षक प्रभारों का प्रत्येक मास की समाप्ति के 15 दिनों के भीतर संवाय करेगा जो केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (3क) के खंड (क) के अधीन समय-समय पर निश्चित करे।

3. सामूहिक बीमा स्कीम के प्रशासन में, जिनके अन्तर्गत लेखाओं का रखा जाना विवरणियों का प्रस्तुत किया जाना, बीमा प्रीमियम का संदाय, लेखाओं का अन्तरण, निरीक्षण प्रभारों का संदाय आदि भी है, होने वाले सभी व्ययों का बहुत नियोजक द्वारा किया जायेगा।

4. नियोजक, केन्द्रीय सरकार द्वारा यथा अनुमोदित सामूहिक बीमा स्कीम के नियमों की एक प्रति, और जब कभी उनमें संशोधन किया जाये, तब उस संशोधन की प्रति तथा कर्मचारियों की बहुसंख्या की भाषा में उसकी मुख्य बातों का अनुवाद, स्थापन के सूचना-पट्ट पर प्रदर्शित करेगा।

5. यदि कोई ऐसा कर्मचारी, जो कर्मचारी भविष्य निधि का या उक्त अधिनियम के अधीन छूट प्राप्त किसी स्थापन की भविष्य निधि का पहले ही सदस्य है, उसके स्थापन में नियोजित किया जाता है, तो नियोजक, सामूहिक बीमा स्कीम के सदस्य के रूप में उसका नाम तुरन्त दर्ज करेगा और उसकी बाबत आवश्यक प्रीमियम भारतीय जीवन बीमा निगम को संवत्त करेगा।

6. यदि उक्त स्कीम के अधीन कर्मचारियों का उपलब्ध फायदे बढ़ाए जाते हैं तो, नियोजक सामूहिक बीमा स्कीम के अधीन कर्मचारियों को उपलब्ध फायदों में समुचित रूप में वृद्धि की जाने की व्यवस्था करेगा जिससे कि कर्मचारियों के लिये सामूहिक बीमा स्कीम के अधीन उपलब्ध फायदे उन फायदों से अधिक अनुकूल हों, जो उक्त स्कीम के अधीन अनुज्ञेय है।

7. सामूहिक बीमा स्कीम में किसी बात के होने हुए भी, यदि किसी कर्मचारी, की मृत्यु पर इस स्कीम के अधीन संवेद्य रकम उस रकम से कम है जो कर्मचारी की उस दशा में संवाय होती जब यह उक्त स्कीम के अधीन होता तो, नियोजक कर्मचारी के विधिक वारिस/नामानिर्देशितों को प्रतिकर के रूप में दोनों रकमों के अन्तर के बराबर रकम का संदाय करेगा।

8. सामूहिक बीमा स्कीम के उपबन्धों में कोई भी संशोधन, प्रादेशिक भविष्य निधि प्रायुक्त, महाराष्ट्र के पूर्व अनुमोदन के बिना नहीं किया जायेगा और जहां किसी संशोधन में कर्मचारियों के हित पर प्रतिकूल प्रभाव पड़ने की संभावना हो वहां, प्रादेशिक भविष्य निधि प्रायुक्त, अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना दृष्टिकोण स्पष्ट करने का युक्तियुक्त अवसर देगा।

9. यदि किसी कारणवश, स्थापन के कर्मचारी, भारतीय जीवन बीमा निगम को उस सामूहिक बीमा स्कीम के, जिसे स्थापन करने के लिये चुका है, अधीन नहीं रह जाते हैं, या इस स्कीम के प्राप्त कर्मचारियों का प्राप्त होने वाले फायदे किसी रीति से कम हो जाते हैं, तो यह छूट रद्द की जा सकती है।

10. यदि किसी कारणवश, नियोजक उस नियत तारीख के भीतर, जो भारतीय जीवन बीमा निगम नियत करे, प्रीमियम का संदाय करने में असफल रहता है, और पालिसी को व्ययगत हो जाने दे दिया जाता है तो, छूट रद्द की जा सकती है।

11. नियोजक द्वारा प्रीमियम के संदाय, आदि में किये गये किसी व्यक्तिगत की दशा में, उन मृत सदस्यों के नामनिर्देशितियों या विधिक वारिसों को जो यदि यह, छूट न दी गई होती, तो उक्त स्कीम के अन्तर्गत होते, बीमा फायदों के संदाय का उत्तरदायित्व नियोजक पर होगा।

12. उक्त स्थापन के संबंध में नियोजक, इस स्कीम के अधीन आने वाले किसी सदस्य की मृत्यु होने पर उसके हकदार नामनिर्देशितियों/विधिक वारिसों को बीमाकृत रकम का संदाय तत्पश्चात् से और प्रत्येक दशा में भारतीय जीवन बीमा निगम से बीमाकृत रकम प्राप्त होने के तत्पश्चात् के भीतर सुनिश्चित करेगा।

[सं एम०-35014/74/81-10एफ०-2]

New Delhi, the 18th December, 1981

S.O. 152. Whereas Messrs The United Western Bank Limited, 172/4, Raviwar Peth, Shivaji Circle, Satara-415001 (hereinafter referred to as the said establishment) have applied for exemption under sub-section (2A) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act);

And whereas, the Central Government is satisfied that the employees of the said establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits under the Group Insurance Scheme of the Life Insurance Corporation of India in the nature of Life Insurance which are more favourable to such employees than the benefits admissible under the Employees Deposit Linked Insurance Scheme, 1976 (hereinafter referred to as the said Scheme);

Now, therefore, in exercise of the powers conferred by sub-section (2A) of section 17 of the said Act and subject to the conditions exempts the said establishment from the operation of all the provisions of the said Scheme for a period of three years.

THE SCHEDULE

1. The employer in relation to the said establishments shall submit such returns to the Regional Provident Fund Commissioner Maharashtra, and maintain such accounts and provide for such facilities for inspection, as the Central Government may direct from time to time.

2. The employer shall pay such inspection charges as the Central Government may, from time to time, direct under clause (a) of sub-section (3A) of section 17 of the said Act, with 15 days from the close of every month.

3. All expenses involved in the administration of the Group Insurance Scheme, including maintenance of accounts, submission of returns, payment of insurance premia, transfer of accounts payment of inspection charges, etc. shall be borne by the employer.

4. The employer shall display, on the Notice Board of the establishment, a copy of the Rules of the Group Insurance Scheme as approved by the Central Government and is and when amended alongwith translation of the salient features thereof, in the language of the majority of the employees.

5. Where an employee, who is already a member of the Employees' Provident Fund or the Provident Fund of an establishment exempted under the said Act, is employed in his establishment, the employer shall immediately enrol him as a member of the Group Insurance Scheme and pay necessary premium in respect of him to the Life Insurance Corporation of India.

6. The employer shall arrange to enhance the benefits available to the employees under the Group Insurance Scheme appropriately, if the benefits available to the employees under the said Scheme are enhanced, so that the benefits available under the Group Insurance Scheme are more favourable to the employees than the benefits admissible under the said Scheme.

7. Notwithstanding anything contained in the Group Insurance Scheme, if on the death of an employee the amount payable under this scheme be less than the amount that would be payable had employee been covered under the said Scheme, the employer shall pay the difference to the legal heir/nominee of the employee as compensation.

8. No amendment of the provisions of the Group Insurance Scheme shall be made without the prior approval or the Regional Provident Fund Commissioner, Maharashtra and where any amendment is likely to affect adversely the interest of the employees, the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

9. Where, for any reason, the employees of the establishment do not remain covered under the Group Insurance Scheme of the Life Insurance Corporation of India as already adopted by the establishment, or the benefits to the employees under this Scheme are reduced to any manner, the exemption shall be liable to be cancelled.

10. Where, for any reason, the employees fail to pay the premium within the due date, as fixed by the Life Insurance Corporation of India, and the policy is allowed to lapse, the exemption is liable to be cancelled.

11. In case of default, of any, made by the employer in payment do not remain covered under the Group Insurance benefits to the nominees or the legal heirs of deceased members who would have been covered under the said scheme but for grant of this exemption, shall be that of the employer.

12. Upon the death of the member covered under the scheme, the employer in relation to the said establishment shall ensure prompt payment of the sum assured to the nominee/legal heirs entitled for it and in any case within 7 days of the receipt of the sum assured from the Life Insurance Corporation of India.

[S. 35014/74/81-PF. II]

कांभा० 153--मैसर्स हरिहर पामिकाइस प्रोप० वी ग्वालिबर रेयन सिल्क मैन्युफैक्चरिंग (विबिंग) कम्पनी लिमिटेड, आकर कुमारपटनम (जिसे इसमें इसके पश्चात् उक्त स्थापन कहा गया है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 17 की उपधारा (2क) के अधीन छूट दिये जाने के लिये आवेदन किया है,

और केन्द्रीय सरकार का समाधान हो गया है कि उक्त स्थापन के कर्मचारी किसी पृथक् अभिदाय या प्रीमियम का संदाय किये बिना ही, भारतीय जीवन बीमा निगम की सामूहिक बीमा स्कीम के अधीन जीवन बीमा के रूप में फायदा उठा रहे हैं और ऐसे कर्मचारियों के लिये ये फायदे उक्त फायदों से अधिक अनुकूल हैं जो कर्मचारी निक्षेप महबूब बीमा स्कीम, 1976 (जिसे इसमें इसके पश्चात् उक्त स्कीम कहा गया है) के अधीन उन्हें अनुभूत है;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (2क) द्वारा प्रदान शक्तियों का प्रयोग करते हुए और इसके उद्देश्य अनुसूची में विनिर्दिष्ट शर्तों के अधीन रहते हुए, उक्त स्थापन को तीन वर्ष के लिये उक्त स्कीम के सभी उपबन्धों के प्रवर्तन में छूट देती है।

अनुसूची

1. उक्त स्थापन के संबंध में नियोजित प्रादेशिक भविष्य निधि आयुक्त, कर्नाटक को ऐसी विवरणियां भेजेगा और ऐसे लेखा रखेगा तथा निरीक्षण के लिये ऐसी सुविधाएं प्रदान करेगा जो केन्द्रीय सरकार समय-समय पर निर्दिष्ट करे।

2. नियोजक, ऐसे निरीक्षण प्रभागों का प्रत्येक मास की समाप्ति के 15 दिन के भीतर संदाय करेगा जो केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (3क) के खंड (क) के अधीन समय-समय पर निर्दिष्ट करे।

3. सामूहिक बीमा स्कीम के प्रशापन में, जिसके अन्तर्गत लेखाओं का रखा जाना, विवरणियों का प्रस्तुत किया जाना, बीमा प्रीमियम का संदाय, लेखाओं का अन्तर्गण, निरीक्षण प्रभागों का सहाय आदि भा है, होने वाले सभी व्ययों का वहन नियोजक द्वारा किया जावेगा।

4. नियोजक, केन्द्रीय सरकार द्वारा यथा अनुमोदित सामूहिक बीमा स्कीम के नियमों की एक प्रति, और जब कभी उनमें संशोधन किया जाये, तब उस संशोधन की प्रति तथा कर्मचारियों की बहुसंख्या का माप में उसकी मुख्य बातों का अनुवाद, स्थापन के सूचना-पट पर प्रदर्शित करेगा।

5. यदि कोई ऐसा कर्मचारी, जो कर्मचारी भविष्य निधि का या उक्त अधिनियम के अधीन छूट प्राप्त किसी स्थापन के भविष्य निधि का पहले ही सदस्य है, उसके स्थापन में नियोजित किया जाता है, तो, नियोजक, सामूहिक बीमा स्कीम के सदस्य के रूप में उसका नाम सुरक्षित दर्ज करेगा और उसकी बाबत आवश्यक प्रीमियम भारतीय जीवन बीमा निगम को संवत् करेगा।

6. यदि उक्त स्कीम के अधीन कर्मचारियों को उपलब्ध फायदे बचाए जाते हैं तो, नियोजक सामूहिक बीमा स्कीम के अधीन कर्मचारियों को उपलब्ध फायदों में समुचित रूप में वृद्धि की जाने की व्यवस्था करेगा जिससे कि कर्मचारियों के लिये सामूहिक बीमा स्कीम के अधीन उपलब्ध फायदे उक्त फायदों से अधिक अनुकूल हों, जो उक्त स्कीम के अधीन अनुभूत हैं।

7. सामूहिक बीमा स्कीम में किसी बात के होते हुए भी, यदि किसी कर्मचारी की मृत्यु पर इस स्कीम के अधीन संदाय रकम उस रकम से कम है जो कर्मचारी को उस वक्ता में संदाय होती जब वह उक्त स्कीम के अधीन होता तो, नियोजक कर्मचारी के विधिक वारिस/नामनिर्देशितों को प्रतिकर के रूप में दोनों रकमों के अन्तर के अंतर का संदाय करेगा।

8. सामूहिक बीमा स्कीम के उपबन्धों में कोई भी संशोधन, प्रादेशिक भविष्य निधि आयुक्त, कर्नाटक के पूर्व अनुमोदन के बिना नहीं किया जायेगा और जहाँ किसी संशोधन से कर्मचारियों के हित पर प्रतिकूल प्रभाव पड़ने की संभावना हो वहाँ, प्रादेशिक भविष्य निधि आयुक्त, अपना अनुमोदन देने से पूर्व कर्मचारियों की अपना दृष्टिकोण स्पष्ट करने का सुक्तियुक्त अवसर देगा।

9. यदि किसी कारणवश, स्थापन के कर्मचारी, भारतीय जीवन बीमा निगम को उस सामूहिक बीमा स्कीम के, जिसे स्थापन पहले अपना चुका है, अधीन नहीं रह जाते हैं, या इस स्कीम के अधीन कर्मचारियों को प्राप्त होने वाले फायदे किसी रीति में कम हो जाते हैं, तो यह छूट रद्द की जा सकती है।

10. यदि किसी कारणवश नियोजक उस नियम तारीख के भीतर, जो भारतीय जीवन बीमा निगम नियम कहें, प्रीमियम वा सहाय करने में सफल रहता है, और पालिसी को व्ययगत हो जान दे दिया जाता है तो, छुट रुक की जा सकती है।

11. नियोजक द्वारा प्रीमियम के सहाय, आदि में किये गये किसी व्यतिरिक्त की दशा में, उन मूल समस्या के नामनिर्देशित या विधिक वारिसों को जो यदि यह, छुट न दी गई होती तो उक्त स्कीम के अन्तर्गत होते, बीमा फायदों के सहाय का उत्तरदायित्व नियोजक पर होगा।

12. उक्त स्थापन के संबंध में नियोजक, इस स्कीम के अधीन आने वाले किसी सदस्य की मृत्यु होने पर उसके हकदार नामनिर्देशित/विधिक वारिसों को बीमाकृत रकम का सहाय तत्परता से और प्रत्येक दशा में भारतीय जीवन बीमा निगम से बीमाकृत रकम प्राप्त होने के साथ-साथ के भीतर सुनिश्चित करेगा।

[सं० 35014/18/81-पी०एफ०-2]

S.O. 153.—Whereas Messrs Harihar Polyfibers, Prop The Gwalior Rayon Silk Mfg. (Wvg) Co. Ltd. P. O. Kumarapatnain (hereinafter referred to as the said establishment) have applied for exemption under sub-section (2A) of section 17 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act) :

And Whereas, the Central Government is satisfied that the employees of the said establishment are, without making any separate contribution or payment of premium in enjoyment of benefit under the Group Insurance Scheme of the Life Insurance Corporation of India in the nature of Life Insurance which are more favourable to such employees than the benefits admissible under the Employees Deposit Limited Insurance Scheme, 1976 (hereinafter referred to as the said Scheme) :

Now, therefore in exercise of the powers conferred by subsection (2A) of section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempt the said establishment from the operation of all the provisions of the said scheme, for three years.

SCHEDULE

1. The employer in relation to the said establishment shall submit such returns to the Regional Provident Fund Commissioner, Karnataka and maintain such accounts and provide for such facilities or inspection, as the Central Government may direct from time to time.

2. The employer shall pay such inspection charges as the Central Government may, from time to time, direct under clause (a) of sub-section (3A) of section 17 of the said Act, with 15 days from the close of every month.

3. All expenses involved in the administration of the Group Insurance Scheme, including maintenance of accounts, submission of returns, payment of insurance premia, transfer of accounts, payment of inspection charges, etc. shall be borne by the employer.

4. The employer shall display, on the Notice Board of the establishment, a copy of the rules of the Group Insurance Scheme as approved by the Central Government and as when amended alongwith translation of the salient features thereof, in the language of the majority of the employees.

5. Where an employee, who is already a member of the Employees' Provident Fund or the Provident Fund of an establishment exempted under the said Act, is employed in his establishment the employer shall immediately enrol him as a member of the Group Insurance Scheme and pay necessary premium in respect of him to the Life Insurance Corporation of India.

6. The employer shall arrange to enhance the benefits available to the employees under the Group Insurance Scheme appropriately, if the benefits available to the employees under

the said Scheme are enhanced so that the benefits available under the Group Insurance Scheme are more favourable to the employees than the benefits admissible under the said Scheme.

7. Notwithstanding anything contained in the Group Insurance Scheme, if on the death of an employee the amount payable under this scheme be less than the amount that would be payable had employee been covered under the said Scheme, the employer shall pay the difference to the legal heir/nominee of the employees as compensation.

8. No amendment of the provisions of the Group Insurance Scheme shall be made without the prior approval of the Regional Provident Fund Commissioner, Karnataka and where any amendment is likely to affect adversely the interest of the employees, the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

9. Where, for any reason, the employees of the establishment do not remain covered under the Group Insurance Scheme of the Life Insurance Corporation of India as already adopted by the establishment, or the benefits to the employees under this Scheme are reduced to any manner, the exemption shall be liable to be cancelled.

10. Where, for any reason, the employer fails to pay the premium within the due date, as fixed by the Life Insurance Corporation of India, and the policy is allowed to lapse, the exemption is liable to be cancelled.

11. In case of default, if any, made by the employer in payment of premium etc., the responsibility for the payment of assurance benefits to the nominee or legal heirs of deceased members who would have been covered under the said Scheme but for grant of this exemption, will be that of the employer.

12. Upon the death of the member covered under the scheme, the employer in relation to the said establishment shall ensure prompt payment of the sum assured to the nominee/legal heirs entitled for it and in any case within 7 days of the receipt of the sum assured from the Life Insurance Corporation of India.

[S 35014/18/81-PF. III]

नई दिल्ली, 30 दिसम्बर, 1981

कां० प्रा० 154- मैसर्स हिन्दुस्तान कांवर लिमिटेड, 10 कामक स्ट्रीट, पोस्ट बाक्स नं० 16008, कलकत्ता-70001, (जिसे इसमें इसके पश्चात् उक्त स्थापन कहा गया है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 17 की उपधारा (2क) के अधीन छुट दिये जाने के लिये आवेदन किया है,

और केन्द्रीय सरकार का समाधान हो गया है कि उक्त स्थापन के कर्मचारी किसी पृथक् अधिदाय या प्रीमियम का सहाय किये बिना ही भारतीय जीवन बीमा निगम की मासिक बीमा स्कीम के अधीन जीवन बीमा के रूप में फायदा उठा रहे हैं और ऐसे कर्मचारियों के लिये ये फायदे उन फायदों से अधिक अनुकूल हैं जो कर्मचारी निक्षेप सहस्र बीमा स्कीम, 1976 (जिसे इसमें इसके पश्चात् उक्त स्कीम कहा गया है) के अधीन उन्हे अनुशील है,

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (2क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इससे उपबन्ध अनुसूची में विनिर्दिष्ट शर्तों के अधीन रहते हुए, उक्त स्थापन को तीन वर्ष की अवधि के लिये उक्त स्कीम के सभी उपबन्धों के प्रवर्तन से छुट देती है।

अनुसूची

1. उक्त स्थापन के संबंध में नियोजक प्रादेशिक भविष्य निधि प्रायुक्त, पश्चिम बंगाल को ऐसी शिफारिशों भेजेगा और ऐसी लेखा रखेगा तथा निरीक्षण के लिये ऐसी सुविधाएँ प्रदान करेगा जो केन्द्रीय सरकार समय-समय पर निर्दिष्ट करे।

2. नियोजक, ऐसे निरीक्षण प्रभावों का प्रत्येक मास की समाप्ति के 15 दिन के भीतर संदाय करेगा जो केन्द्रीय सरकार, उक्त अधिनियम की धारा 17 की उपधारा (3क) के खंड (क) के अधीन समय-समय पर निविष्ट करे।

3. सामूहिक बीमा स्कीम के प्रशासन में, जिसके अंतर्गत लेखाओं का रखा जाना विवरणियों का प्रस्तुत किया जाना, बीमा प्रीमियम का संदाय, लेखाओं का, अन्तरण, निरीक्षण प्रभावों का संदाय आदि भी हैं, होने वाले सभी व्ययों का वहन नियोजक द्वारा किया जायगा।

4. नियोजक, केन्द्रीय सरकार द्वारा दिया अनुमोदित सामूहिक बीमा स्कीम के नियमों की एक प्रति, और जब कभी उनमें संशोधन किया जाये, तब उस संशोधन की प्रति तथा कर्मचारियों की बहुसंख्या की भाषा में उसकी मुख्य बातों का अनुवाद, स्थापन के सूचना-पट पर प्रदर्शित करेगा।

5. यदि कोई ऐसा कर्मचारी, जो कर्मचारी भविष्य निधि का या उक्त अधिनियम के अधीन छूट प्राप्त किसी स्थापन की भविष्य निधि का पक्षी ही सदस्य है, उसके स्थापन में नियोजित किया जाता है तो, नियोजक, सामूहिक बीमा स्कीम के सदस्य के रूप में उसका नाम तुरन्त दर्ज करेगा और उसकी बाबत आवश्यक प्रीमियम भारतीय जीवन बीमा निगम को संदत्त करेगा।

6. यदि उक्त स्कीम के अधीन कर्मचारियों का उपलब्ध फायदे बढ़ाये जाते हैं तो, नियोजक सामूहिक बीमा स्कीम के अधीन कर्मचारियों को उपलब्ध फायदों में समुचित रूप से वृद्धि की जाने की व्यवस्था करेगा जिससे कि कर्मचारियों के लिये सामूहिक बीमा स्कीम के अधीन उपलब्ध फायदे उन फायदों से अधिक अनुकूल हों, जो उक्त स्कीम के अधीन अनुज्ञेय हैं।

7. सामूहिक बीमा स्कीम में किसी बात के होते हुए भी, यदि किसी कर्मचारी की मृत्यु पर इस स्कीम के अधीन संवय रकम उस रकम से कम है जो कर्मचारी को उस दशा में संदाय होती जब वह उक्त स्कीम के अधीन होता तो, नियोजक कर्मचारी के विधिक वारिस/नामनिर्देशित को प्रतिकर के रूप में दोनों रकमों के अन्तर के बराबर रकम का संदाय करेगा।

8. सामूहिक बीमा स्कीम के उपबन्धों में कोई भी संशोधन, प्रादेशिक भविष्य निधि आयुक्त, पश्चिम बंगाल के पूर्व अनुमोदन के बिना नहीं किया जायेगा और जहाँ किसी संशोधन से कर्मचारियों के हित पर प्रतिकूल प्रभाव पड़ने की संभावना हो बहा, प्रादेशिक भविष्य निधि आयुक्त, अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना दृष्टिकोण स्पष्ट करने का मुक्तिपुस्तक अवसर देगा।

9. यदि किसी कारणवश, स्थापन के कर्मचारी, भारतीय जीवन बीमा निगम को उस सामूहिक बीमा स्कीम के, जिसे स्थापन पहले अपना भुक्ता है, अधीन नहीं रह जाते हैं, या इस स्कीम के अधीन कर्मचारियों को प्राप्त होने वाले फायदे किसी रीति से कम हो जाते हैं, तो यह छूट रह की जा सकती है।

10. यदि किसी कारणवश, नियोजक उस नियत तारीख के भीतर, जो भारतीय जीवन बीमा निगम नियत करे, प्रीमियम का संदाय करने में असफल रहता है, और पक्षी को व्यवगत हो जाने से विरा जाता है तो, छूट रह की जा सकती है।

11. नियोजक द्वारा प्रीमियम के संदाय, आदि में किये गये किसी व्यतिक्रम की दशा में, उन मृत सदस्यों के नामनिर्देशितों या विधिक वारिसों को जो यदि यह, छूट न हो गई होती तो उक्त स्कीम के अन्तर्गत होते, बीमा फायदों के संदाय का उत्तरदायित्व नियोजक पर होगा।

12. उक्त स्थापन के संबंध में नियोजक, इस स्कीम के अधीन जाने वाले किसी सदस्य की मृत्यु होने पर उसके हकदार नामनिर्देशितों/विधिक वारिसों को बीमाकृत रकम का संदाय तत्परता से और प्रत्येक

दशा में भारतीय जीवन बीमा निगम से बीमाकृत रकम प्राप्त होने के सात दिन के भीतर मुनिश्चित करेगा।

[सं० एस०-35014/93/80-बी०एफ०-2]

New Delhi, the 30th December, 1981

S.O. 154.—Whereas Messrs Hindustan Copper Limited, 10 Camal Street, P. Box No. 16008, Calcutta (hereinafter referred to as the said establishment) have applied for exemption under sub-section (2A) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act);

And whereas, the Central Government is satisfied that the employees of the said establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits under the Group Insurance Scheme of the Life Insurance Corporation of India in the nature of Life Insurance which are more favourable to such employees than the benefits admissible under the Employees Deposit-linked Insurance Scheme, 1976 (hereinafter referred to as the said Scheme);

Now, therefore, in exercise of the powers conferred by sub-section (2A) of section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme for three years.

SCHEDULE

1. The employer in relation to the said establishment shall submit such returns to the Regional Provident Fund Commissioner West Bengal and maintain such accounts and provide for such facilities for inspection, as the Central Government may direct from time to time.

2. The employer shall pay such inspection charges as the Central Government may, from time to time, direct under clause (a) of sub-section (3A) of section 17 of the said Act, within 15 days from the close of every month.

3. All expenses involved in the administration of the Group Insurance Scheme, including maintenance of accounts, submission of returns, payment of insurance premia, transfer of accounts payment of inspection charges, etc., shall be borne by the employer.

4. The employer shall display, on the Notice Board of the establishment, a copy of the rules of the Group Insurance Scheme as approved by the Central Government and, as and when amended, alongwith a translation of the salient features thereof, in the language of the majority of the employees.

5. Where an employee, who is already a member of the Employees' Provident Fund or the Provident Fund of an establishment exempted under the said Act, is employed in this establishment, the employer shall immediately enrol him as a member of the Group Insurance Scheme and pay necessary premium in respect of him to the Life Insurance Corporation of India.

6. The employer shall arrange to enhance the benefits available to the employees under the Group Insurance Scheme appropriately, if the benefits available to the employees under the said scheme are enhanced, so that the benefits available under Group Insurance Scheme are more favourable to the employees than the benefit admissible under the said Scheme.

7. Notwithstanding anything contained in the Group Insurance Scheme, if on the death of an employee the amount payable under this scheme be less than the amount that would be payable had employee been covered under the said Scheme, the employer shall pay the difference to the legal heir/nominee of the employee as compensation.

8. No amendment of the provisions of the Group Insurance Scheme shall be made without the prior approval of the Regional Provident Fund Commissioner West Bengal and

where any amendment is likely to affect adversely the interest of the employees, the Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

9. Where, for any reason, the employees of the establishment do not remain covered under the Group Insurance Scheme of the Life Insurance Corporation of India as already adopted by the establishment, or the benefits to the employees under this Scheme are reduced to any manner, the exemption shall be liable to be cancelled.

10. Where, for any reason, the employer fails to pay the premium within the due date, as fixed by the Life Insurance Corporation of India, and the policy is allowed to lapse, the exemption is liable to be cancelled.

11. In case of default, if any, made by the employer in payment of premium etc., the responsibility for payment of assurance benefits to the nominee or legal heirs of deceased members who would have been covered under the said Scheme but for grant of this exemption, will be that of the employer.

12. Upon the death of the member covered under the scheme, the employer in relation to the said establishment shall ensure prompt payment of the sum assured to the nominee/legal heirs entitled for it and in any case within 7 days of the receipt of the sum assured from the Life Insurance Corporation of India.

[S. 35014/93/80-PF. II]

नई दिल्ली, 4 जनवरी, 1982

का० भा० 155—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का. 34) (जिसको इसके तत्पश्चात् पूर्वोक्त अधिनियम कहा गया है) की धारा 91क के साथ पठित धारा 88 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के कृषि मंत्रालय (कृषि और सहकारी विभाग) के अधीन एकीकृत भारतीय परियोजना, एमकुलम के वर्क एवं हिमोकरण संयंत्र, कर्मनालाएँ और शिपवेज इलैक्ट्रॉनिक अनुभाग प्रसस्करण अनुभाग और गियर अनुभाग में के नियमित कर्मचारियों को उक्त अधिनियम के प्रवर्तन से, पहली जुलाई, 1978 से 30 सितम्बर, 1982 तक, जिसमें यह दिन भी सम्मिलित है, की और अवधि के लिए छूट देती है।

2. पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात्—

- (1) पूर्वोक्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदाभिधान दिखाए जाएंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएँ प्राप्त करते रहेंगे, जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व/संवत्स अधिदायों के आधार पर हकदार हो जाते;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अधिदाय पहले ही किए जा चुके हों तो वे वापिस नहीं किए जाएंगे;
- (4) उक्त कारखाने का नियोजन, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे हमें इसके पश्चात् "उक्त अवधि" कहा गया है), ऐसी विवरणियाँ ऐसे प्रकृष में और ऐसी विनिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि को बाबत वेनी थी;
- (5) नियम द्वारा उक्त अधिनियम की धारा 5 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी,—
- (1) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरणी की विनिष्टियों को सत्यापित करने के प्रयोजनार्थ; या

(2) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाप्रवृत्त रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं, या

(3) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी नियोजक द्वारा दिए गए उन फायदों को, जिनके प्रतिफलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(4) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं,

निम्नलिखित कार्य करने के लिए सज्जत होगा,—

(क) प्रधान या अव्यवहित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है, या

(ख) ऐसे प्रधान या अव्यवहित नियोजक के अधिभोगाधीन किसी कारखाने स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी व्यक्ति से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के सदाय से संबंधित ऐसे लेखा, बहियाँ और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें, या उन्हें ऐसी जानकारी दे जिसे वे आवश्यक समझते हैं, या

(ग) प्रधान या अव्यवहित नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखानों स्थापन, कार्यालय या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिनके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना, या

(घ) ऐसे कारखाने, स्थान, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज को नकल तैयार करना या उसे उद्धरण लेना।

व्याख्यात्मक टिप्पणी

इस मामले में पूर्वोपेक्षी प्रभाव से छूट देना आवश्यक हो गई है, क्योंकि छूट के लिए प्रावधान-पत्र देर से प्राप्त हुआ। तथापि, यह भी प्रमाणित किया जाता है कि पूर्वोपेक्षी प्रभाव से छूट देने से किसी के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

[संख्या एस-38014/19/81-एच० भाई०]

New Delhi, the 4th January, 1982

S.O. 155.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948) (hereinafter referred to as the said Act) the Central Government hereby exempts the regular employees in Ice-rum-Freezing Plant, Workshops and Shipways, Electronic Section, Processing Section and Gear Section of the Integrated Fisheries Project, Ernakulam under Government of India in the Ministry of Agriculture (Department of Agriculture & Cooperation) from the operation of the said Act for a period with effect from 1st July, 1978 upto and inclusive of the 30th September, 1982.

The above exemption is subject to the following conditions, namely:—

- (1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the

basis of the contributions paid prior to the date from which exemption granted by this notification operates;

- (3) The contributions for the exempted period, if already paid, shall not be refunded;
- (4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purposes of—
 - (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950, for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory

be empowered to—

- (a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or
- (b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons, and payment of wages or to furnish to him such information as he may consider necessary; or
- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case, as the application for exemption was received late. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

[No. S-38014/19/81-HI]

अ.सं. आ० 156—केन्द्रीय - सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रस्तुत शक्तियों का प्रयोग करते हुए, तथा भारत सरकार के श्रम-संज्ञानय की अधिसूचना संख्या का० आ० 2267 दिनांक

20-8-1980 के अनुक्रम में, भारतीय भौगोलिक सर्वेक्षण संस्था, जयपुर के इंजीनियरिंग प्रभाग के नियमित कर्मचारियों को पहली जनवरी, 1980 से 30 सितम्बर, 1982 तक जिसमें यह दिन भी सम्मिलित है, की अवधि के लिए छूट देती है।

2 पूर्वोक्त छूट की शर्त निम्नलिखित है, अर्थात्:—

- (1) पूर्वोक्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदाभिधान दिखाए जाएंगे,
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसूचनाएँ प्राप्त करते करते रहेंगे, जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व/संदर्भ अभिधारियों के आधार पर हकदार हो जाते ;
- (3) छूट प्राप्त अवधि के लिए यदि कोई अभिधार्य पहले ही किए जा चुके हों तो वे वापिस नहीं किए जाएंगे;
- (4) उक्त कारखाने का नियोजन, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे इसमें इसके पश्चात् "उक्त अवधि" कहा गया है), ऐसी विवरणियाँ ऐसे प्ररूप में और ऐसी विनिर्दिष्टियों सहित देगा, जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी थी;
- (5) नियम द्वारा, उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी,—
 - (1) धारा 44 की उपधारा (1) के अधीन उक्त अवधि की बाबत दी गई किसी विवरणी की विनिर्दिष्टियों को सत्यापित करने के प्रयोजनार्थ; या
 - (2) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाप्रयोजित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गए थे या नहीं; या
 - (3) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी नियोजक द्वारा दिए गए उन फायदों की, जिसके प्रतिकूलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, हकदार और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (4) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं,

निम्नलिखित कार्य करने के लिए सशक्त होगा,—

- (क) प्रधान या अध्यक्षित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; या
- (ख) ऐसे प्रधान या अध्यक्षित नियोजक के अधिभोगाधीन किसी कारखाने, स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी व्यक्ति से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय में संबंधित ऐसे लेखा, बहियाँ और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे, या उन्हें ऐसी जानकारी दे जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या अध्यक्षित नियोजक-की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का मुक्तिपुक्त कारण है कि वह कर्मचारी है, परीक्षा करना, या

- (ब) ऐसे कारखाने, स्थान, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उसे उद्धरण लेना।

[संख्या एस-38014/4/79-एच०आई]

व्याख्यात्मक ज्ञापन

इस मामले में पूर्ववर्ती प्रभाव से छूट बेनी आवश्यक हो गई है, क्योंकि छूट के लिए प्राप्त आवेदन-पत्र पर विचार करने में समय लगा तथापि, यह भी प्रमाणित किया जाता है कि पूर्ववर्ती प्रभाव से छूट देने से किसी के हित पर पतिकूल प्रभाव नहीं पड़ेगा।

S.O. 156.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948) and in continuation of the notification of the Government of India in the Ministry of Labour No. S.O. 2267 dated the 20th August, 1980, the Central Government hereby exempts the regular employees of the Engineering Division of the Geological Survey of India, Jaipur from the operation of the said Act for a period with effect from the 1st day of January, 1980 upto and inclusive of the 30th day of September, 1982.

The above exemption is subject to the following conditions, namely :—

- (1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refunded;
- (4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purposes of—
 - (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory
 be empowered to—
 - (a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or
 - (b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in-charge thereof to produce to such

Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as the processing of the application for exemption took time. It is, however, certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

[No. S-38014/4/79-HI]

का० भा० 157.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 87 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, और भारत सरकार के श्रम मंत्रालय की अधिसूचना सं० का० भा० 1644 तारीख 30-5-1980 के अनुक्रम में, इससे उपाबद्ध अनुसूची में विनिर्दिष्ट, इंडियन आयल कारपोरेशन लि०, बम्बई के कारखानों को उक्त अधिनियम के प्रवर्तन से पछि जुलाई, 1980 से 30 जून, 1981 तक की एक वर्ष की और अवधि के लिए जिसके अन्तर्गत यह तारीख भी है, छूट देती है।

2. पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात्:—

- (1) उक्त कारखाने का नियोजक, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था जिसे इसमें इसके पश्चात् "उक्त अवधि" कहा गया है (ऐसी विवरणियाँ, ऐसे प्रश्न में और ऐसी शिष्टियों सहित) देगा जो कर्मचारी राज्य बीमा (साधारण) अधिनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी थी;
- (2) निगम द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निगम का इस निमित्त प्राधिकृत कोई अन्य पदाधिकारी—
 - (i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरणी की शिष्टियों के सत्यापित करने के प्रयोजनार्थ; या
 - (ii) यह अधिनियमित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) अधिनियम, 1950 द्वारा प्रेषित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गए थे या नहीं; या
 - (iii) यह अधिनियमित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिए गए उन फायदों को, जिसके प्रतिकारस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अधिनियमित करने के प्रयोजनार्थ कि उस अवधि के दौरान जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था नहीं;
- (क) प्रधान या अध्यक्षित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदाधिकारी आवश्यक समझता है;
- (ख) ऐसे प्रधान या अध्यक्षित नियोजक के अधिमोवादीन किसी उचित समय पर प्रवेश करने और उसके प्रभारी से यह

अपेक्षा करने के लिए कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियाँ और अन्य वस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें, या उन्हें ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं, या

(ग) प्रधान या अध्यक्षित नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने स्थापन, कार्यालय या अन्य परिसर में उपस्थित हों या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना, या

(घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य वस्तावेज की मकल तैयार करना या उसे उद्धरण लेना :

अनुसूची

राज्य या संघ क्रम राज्य क्षेत्र का सं० नाम	क्षेत्र का नाम	कारखाने का नाम
1 2 3 4		
1 आंध्र प्रदेश	विशाखा- पत्तनम-1	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) पोस्ट बाक्स नं० 54, मलकापुरम, इस्टोलीयन विशाखापत्तनम-1
2 आंध्र प्रदेश	निकदराबाद	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) पोस्ट बाक्स नं० 1634, आर०आर०सी० ग्राउंड, निकदराबाद।
3 आंध्र प्रदेश	विजयवाड़ा	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) स्टेशन रोड, विजयवाड़ा।
4 आंध्र प्रदेश	सिकंदराबाद- 14	इंडियन आयल कारपोरेशन लिमिटेड विमानन ईंधन स्टेशन, डाकघर हाकिमपेट धायु सेनास्टेशन, सिकंदराबाद-14
5 दिल्ली	दिल्ली	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) एल० पी० जी० बाटलिंग प्लांट, शकूर बस्ती, दिल्ली-26
6 दिल्ली	दिल्ली	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) शिवाजी पार्क के सामने, शकूरबस्ती, दिल्ली-26
7 दिल्ली	दिल्ली	इंडियन आयल कारपोरेशन लिमिटेड विमानन ईंधन स्टेशन, सबर बाजार रोड, मोरी लाइन के पास, पालम, दिल्ली ईंट-10
8 केरल	कोचीन	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) पोस्ट बाक्स नं० 535, विलिंगटन द्वीप, हारबर रोड, कोचीन-3
9 केरल	कोचीन	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) कोचीन परिष्करण प्रतिष्ठान, पोस्ट बाक्स नं० 8, त्रिपुनीथ द्वारा कोचीन।

1	2	3	4
10.	केरल	कोचीन	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) कर्बक रोड, पोस्ट बैग 1759, एर्नाकुलम, कोचीन-6
11.	तमिलनाडु	मद्रास	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) एनविहार्ड रोड, मद्रास
12.	तमिलनाडु	मद्रास	इंडियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) कोकूपेट, मद्रास-21
13.	तमिलनाडु	मद्रास	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) नार्थ रेलवे टर्मिनस रोड, रोयापुरम, मद्रास।
14	तमिलनाडु	मद्रास	इंडियन आयल कारपोरेशन लिमिटेड विमानन, ईंधन स्टेशन, मोनामबकम हवाई अड्डा, मद्रास।
15.	तमिलनाडु	मद्रास	इंडियन आयल कारपोरेशन लिमिटेड, दूधन ब्लैडिंग प्लांट, असेरे हौई रोड, लीमार्पेट तीरुवथाईर पोस्ट, मद्रास-81
16.	महाराष्ट्र	मुम्बई	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग), सरकारी फूड ग्रेंस गोदान के पास, बाधसा, मुम्बई-31
17.	महाराष्ट्र	मुम्बई	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) टाटा ताप विद्युत संयंत्र के पास, ट्रांबे, कोरीबोर रोड, मुम्बई-74
18.	महाराष्ट्र	मुम्बई	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) सेबारी रेलवे स्टेशन के सामने मुम्बई-15
19.	महाराष्ट्र	पूना	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) राजबहादुर मोती- लाल रोड, पूना।
20.	महाराष्ट्र	मुम्बई	इंडियन आयल कारपोरेशन लिमिटेड, विमानन ईंधन स्टेशन, शांताकृष्ण विमान पत्तन, मुम्बई-29
21.	कर्नाटक	बंगलौर	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) नागदी रोड, पोस्ट बैग नं० 3, बंगलौर-23
22.	कर्नाटक	बंगलौर	इंडियन आयल कारपोरेशन लिमिटेड, विमानन ईंधन स्टेशन, बंगलौर विमान पत्तन, बंगलौर।
23.	आंध्र प्रदेश	हैदराबाद	इंडियन आयल कारपोरेशन लिमिटेड, विमानन ईंधन स्टेशन, बैगमपेट विमान, हैदराबाद।
24.	पंजाब	जालंधर	इंडियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) रेलवे गार्ड रोड रोड, जालंधर।

1	2	3	4
25.	हरियाणा	भम्बाला छावनी	इण्डियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) बल्क सेटर, भम्बाला छावनी ।
26.	हरियाणा	हिसार	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) हिसार ।
27.	उत्तर प्रदेश	कानपुर	इण्डियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) अरमापुर, कानपुर
28.	महाराष्ट्र	नागपुर	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) मोती बाग, नागपुर ।
29.	पश्चिम बंगाल	कलकत्ता	इण्डियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) दम-दम विमान पक्ष, कलकत्ता ।
30.	पश्चिम बंगाल	कलकत्ता	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) मोरीग्राम प्रतिष्ठान डाकघर राधाबासी जिला, हुबड़ा ।
31.	पश्चिम बंगाल	पहाड़पुर	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) पहाड़पुर प्रतिष्ठान, पश्चिम बंगाल ।
32.	पश्चिम बंगाल	24 परगना	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) बज-बज प्रतिष्ठान, डाकघर बज-बज, 24 परगना, पश्चिम बंगाल ।
33.	असम	गोहाटी	इण्डियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) गोहाटी प्रतिष्ठान गोहाटी ।
34.	बिहार	पटना	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) पटना प्रतिष्ठान, पटना ।
35.	उत्तर प्रदेश	आगरा	इण्डियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) खैरिया विमान क्षेत्र, आगरा 8 ।
36.	केरल	तृतीकोरीन	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) तृतीकोरीन प्रतिष्ठान, बंदगाह परियोजना परिसर, तृतीकोरीन- 4
37.	उड़ीसा	कटक	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग) शिकायुर डाकघर बीलीगंज, कटक ।
38.	गोवा	वास्को-डी-गामा	इण्डियन आयल कारपोरेशन लिमिटेड, (विपणन प्रभाग), वास्को-डी-गामा गोवा ।
39.	कर्नाटक	मंगलूर	इण्डियन आयल कारपोरेशन लिमिटेड (विपणन प्रभाग) मंगलूर प्रतिष्ठान मंगलूर ।
40.	उत्तर प्रदेश	कानपुर	इण्डियन आयल कारपोरेशन लिमिटेड, (परिष्करण) और पाइप लाइन्स प्रभाग) कानपुर। स्टेशन अरमापुर, कानपुर ।

व्यावहारिक तालिका

इस मामले में पूर्वोपेक्षी प्रमाण से छूट देने आवश्यक हो गई है, क्योंकि छूट के प्रस्ताव पर विचार करने में समय लगा। तथापि, यह प्रमाणित

किया जात है कि पूर्वोपेक्षी प्रमाण से छूट देने से किसी के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

[सं० एस० 38014/18/80-एच०आई०]

पी० सिन्हा, उप सचिव

S.O. 157.—In exercise of the powers conferred by section 87 of the Employees' State Insurance Act, 1948 (34 of 1948), and in continuation of the notification of the Government of India in the Ministry of Labour No. S.O. 1641, dated the 30th May, 1980, the Central Government hereby exempts the factories, specified in the Schedule annexed hereto, belonging to the Indian Oil Corporation Limited, Bombay, from the operation of the said Act for a further period of one year with effect from 1st July, 1980 upto and inclusive of the 30th June, 1981.

2. The above exemption is subject to the following conditions, namely :—

(1) The employer of the said factories shall submit in respect of the period during which the factories were subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulation, 1950;

(2) Any inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purposes of—

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act has been complied with during the period when such provisions were in force in relation to the said factory be empowered to—

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or

(b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or

(d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises.

SCHEDULE			1	2	3	4	5
Sl. No.	Name of State or Union Territory	Name of area	Name of factory				
1	2	3	4				
1.	Andhra Pradesh	Visakhapatnam-I	Indian Oil Corporation Limited (Marketing Division) Post Box No. 54, Malkapuram Installation Visakhapatnam-I.	13.	Tamil Nadu Madras	Indian Oil Corporation Limited, (Marketing Division), North Railway Terminus Road, Royapuram, Madras.	
2.	Andhra Pradesh	Secunderabad	Indian Oil Corporation Limited (Marketing Division) Post Box No. 1634, RRC Ground, Secunderabad.	14.	Tamil Nadu Madras	Indian Oil Corporation Limited, Aviation Fuel Station, Meenambakkam Airport, Madras.	
3.	Andhra Pradesh	Vijayawada	Indian Oil Corporation Limited, (Marketing Division) Station Road, Vijayawada.	15.	Tamil Nadu Madras	Indian Oil Corporation Limited, Tube Blending Plant, Ennore High Road, Teniarpet, Tiruvethiyar Post, Madras-81.	
4.	Andhra Pradesh	Secunderabad-14	Indian Oil Corporation Limited, Aviation Fuel Station, Post Office Hakimpet Air Force Station, Secunderabad-14.	16.	Maharashtra Bombay	Indian Oil Corporation Limited, (Marketing Division), Near Government Food Training Godowns, Wadala, Bombay-31.	
5.	Delhi	Delhi	Indial Oil Corporation Limited, (Marketing Division) L.P.G. Bottling Plant, Shakurbasti, Delhi-26	17.	Maharashtra Bombay	Indian Oil Corporation Limited, (Marketing Division), Near Tata Thermal Power Plant, Trombay Corridor Road, Bombay-74	
6.	Delhi	Delhi	Indian Oil Corporation Limited, (Marketing Division), Opposite Sivaji Park, Shakurbasti Delhi-26.	18.	Maharashtra Bombay	Indian Oil Corporation Limited, (Marketing Division), Opposite Sewarce Railway Station Bombay-15.	
7.	Delhi	Delhi	Indian Oil Corporation Limited Aviation Fuel Station, Sadar Bazar Road, Near More Line, Palam, Delhi Cantt-10.	19.	Maharashtra Bombay	Indian Oil Corporation Limited, (Marketing Division), Rajbahadur Motilal Road, Poona.	
8.	Kerala	Cochin	Indian Oil Corporation Limited, (Marketing Division) Post Box No. 535, Willington Island, Harbour Road Cochin-3.	20.	Maharashtra Bombay	India Oil Corporation Limited, Aviation fuel Station Santa Cruz Airport, Bombay-29.	
9.	Kerala	Cochin	Indian Oil Corporation Limited, (Marketing Division), Cochin Refinery Installation, Post Box No. 8, Tripunith, Via Cochin	21.	Karnataka Bangalore	Indian Oil Corporation Limited, (Marketing Division) Nagadi Road, Post Bag No. 3, Bangalore-23.	
10.	Kerala	Cochin	Indian Oil Corporation Limited, (Marketing Division) Mashaka road, post Bag 1759.	22.	Karnataka Bangalore	Indian Oil Corporation Limited, Aviation Fuel Station, Bangalore Air port, Bangalore.	
11.	Tamil Nadu	Madras	Indian Oil Corporation Limited, (Marketing Division), Errove High Road, Madras.	23.	Andhra Pradesh	Indian Oil Corporation Limited, Aviation Fuel Station, Begumpt Airport, Hyderabad.	
12.	Tamil Nadu	Madras	Indian Oil Corporation Limited, (Marketing Division), Korukupet, Madras-21.	24.	Punjab	Jullundur Indian Oil Corporation Limited, (Marketing Division) Railway Goods Shed Road, Jullundur.	
				25.	Haryana Ambala Cantonment	Indian Oil Corporation Limited, (Marketing Division) Bulk Centre, Ambala Cantonment.	
				26.	Haryana Hissar	Indian Oil Corporation Limited, (Marketing Division) Hissar.	

1	2	3	4
27. Uttar Pradesh	Kanpur	Indian Oil Corporation Limited, (Marketing Division) Armapore, Kanpur.	
28. Maharashtra	Nagpur	Indian Oil Corporation Limited, (Marketing Division), Moti Bagh, Nagpur.	
29. West Bengal	Calcutta	Indian Oil Corporation Limited, (Marketing Division) Dum-Dum Aviation Fuel Station, Dum-Dum Airport, Calcutta.	
30. West Bengal	Calcutta	Indian Oil Corporation Limited, (Marketing Division) Mourigram Installations, Post Office Radhadasi District, Howrah.	
31. West Bengal	Paharpur	Indian Oil Corporation Limited, (Marketing Division) Paharpur Installations, West Bengal.	
32. West Bengal	24 Parganas	Indian Oil Corporation Limited (Marketing Division) Budge Budge Installations Post Office Budge Budge 24, Parganas, West Bengal.	
33. Assam	Gauhati	Indian Oil Corporation Limited (Marketing Division) Gauhati Installation, Gauhati.	
34. Bihar	Patna	Indian Oil Corporation Limited (Marketing Division) Patna Installation Patna.	
35. Uttar Pradesh.	Agra	Indian Oil Corporation Limited (Marketing Division) Kheria Air Field Agra-8.	
36. Kerala	Tuticorin	Indian Oil Corporation Limited, (Marketing Division), Tuticorin Installations, Harbour Project Premises, Tuticorin-4.	
37. Orissa	Cuttack	Indian Oil Corporation Limited, (Marketing Division), Shikapore, P. O. Chauliganj, Cuttack.	
38. Goa	Vasco-de-Gama	Indian Oil Corporation Limited, (Marketing Division), Vasco-de-Gama, Goa.	
39. Karnataka	Mangalore	Indian Oil Corporation Limited, (Marketing Division), Mangalore Installations, Mangalore.	
40. Uttar Pradesh.	Kanpur	Indian Oil Corporation Limited, (Refineries and Pipe Lines Division) Kanpur I Station, Armapur, Kanpur.	

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as the processing of the proposal for

exemption took time. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

[No. S-38014/18/80-HI]

P. SINHA, Dy. Secy.

नई दिल्ली, 28 दिसम्बर, 1981

का० आ० 158.—केन्द्रीय सरकार ने यह समाधान ही जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2, के खण्ड (इ) के उपखण्ड (vi) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना सं० का० आ० 1913 तारीख 23 जून, 1981 द्वारा उक्त अधिनियम की धारा 2 के खण्ड (ख) में यथोपरिस्थित बैंकिंग कम्पनी द्वारा चलाए जा रहे बैंकिंग उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 29 जून, 1981 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है,

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (इ) के उपखण्ड (vi) के परन्तुक द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 29 दिसम्बर 1981 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[सं० एस० 11017/9/81-डी-1 ए०]

एल० के० नारायणन, ईस्क अधिकाारी

New Delhi, the 28th December, 1981

S.O. 158.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour No. S.O. 1913 dated the 23rd June, 1981, the Banking Industry carried on by a banking company, as defined in clause (bb) of section 2 of the said Act, to be a public utility, service for the purposes of the said Act, for a period of six months, from the 29th June, 1981 ;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months ;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 29th December, 1981.

[F. No. S-11017(9)/81-D.I.A.]

L. K. NARAYANAN, Under Secy.

New Delhi, the 28th December, 1981

S.O. 159.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Mahakali Colliery Wardha Valley Area of Western Coalfields Limited District Chandrapur, Nagpur and their workmen, which was received by the Central Government on the 19th December, 1981.

BEFORE JUSTICE SHRI S. R. VYAS (RETD.), PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

(MADHYA PRADESH)

Case No. CGIT/LC(R)(24)/1979

PARTIES :

Employers in relation to the management of Mahakali Colliery, Wardha Valley Area of Western Coalfields Limited, District Chandrapur, Nagpur ;

AND

Their workmen represented through the Rashtriya Vidharbha Coal Employees Union, Mazdoor Karyalaya, Near Jatpura Gate, Chandrapur-442401.

APPEARANCES :

For Union—Shri Gulab Gupta, Advocate.
For Management—Shri P. S. Nair, Advocate.

INDUSTRY : Coal.

District : Chandrapur (M.S.)

AWARD

Dated, December 10, 1981

This is a dispute between the workman, Shri Ramashankar Yadav of the Mahakali Colliery in the Wardha Valley Area of the Western Coalfields Limited and the management of this Colliery regarding designation/grade and scale of Head Security Guard to the said workman. Since this dispute was not settled between the management and the workman there were conciliation proceedings and on their failure, Government of India in the Ministry of Labour referred the following dispute to this Tribunal, for adjudication, vide its Notification No. L-18011(5)/79-D.IV(B) dated 10th September, 1979 :

"Whether the action of the management of Western Coalfields Limited, Nagpur denying the designation/grade and scale of Head Security Guard to Shri Ramashankar Yadav of Mahakali Colliery in Wardha Valley Area is justified, if not, to what relief is the concerned workman entitled?"

2. The case of the workman is that he is an employee of the Coal Mines since before the nationalisation of the Coal Mines. Presently he is under the employment of the Mahakali Colliery in the Wardha Valley Area of the Western Coalfields Limited, Chandrapur, Nagpur. The management passed various orders from time to time with regard to the allotment of duties to Security Guards. Sometimes the management described him as a Head Chowkidar/Head Security Guard and sometimes as Security Guard/Security Chowkidar. According to the workman, though he has been discharging the duties of the Head Security Guard under the management of the Western Coalfields Limited, hereinafter referred to as the management, yet he has not been either designated as Head Security Guard or given the scale of wages of the Head Security Guard. When he made a demand for his grade, designation and prescribed scales of wages the management turned down his demand. He accordingly raised the dispute and in the conciliation proceedings a settlement was arrived at but despite this settlement he was not given the designation and scale of wages from 1st April, 1978. The refusal on the part of the management to give him the designation and scale demanded by him was, according to the workman, neither justified on facts nor in law.

3. In reply to this demand by the workman, it is stated by the management that the workman is a pre-nationalisation employee of the Mahakali Colliery; that his services were absorbed under the present management; that while absorbing the pre-nationalisation employees the workman was absorbed as a Security Guard only, that proper scale of wages was allowed to the workman; that the workman did not fulfil the minimum qualifications prescribed by the management for the post of Head Security Guard; that he did not comply with the transfer orders made in relation to him; that the jurisdiction to promote a Security Guard to the post of Head Security Guard exclusively lies with the management and that the workman cannot claim promotion in such adjudication proceedings.

4. Both the parties filed their rejoinders to the statement of claims filed by them. In those rejoinders they reiterated the claims made by them in their respective statement of demands.

5. In view of the pleadings of the parties the dispute referred to for adjudication is the main issue between the parties. In support of their respective claims, both the parties have led oral and documentary evidence. Having considered the same my findings on this issue is that the workman, Shri Ramashankar Yadav is entitled to the designation/grade and scale of wages of the Head Security Guard from 1st April, 1978.

Reasons for the above findings.

6. In his own statement the workman has stated that he has been discharging duties as a Head Security Guard and supervises the discharge of duties of the other security guards

employed by the management. He further says that these duties of the Head Security Guard are being discharged from the year 1974 and Ex. W/2 and Ex. W/3 are the documents to support his claim. Lastly, according to him, the dispute was also referred to for conciliation and in the conciliation proceedings the report of the Conciliation Officer is Ex. W/9.

7. The workman has also filed some other documents, out of which Ex. W/5, Ex. W/6 and Ex. W/8 are some of the documents of the management in which the workman has been described as a Head Chowkidar/Head Security Guard/Security Incharge of the Colliery. In his cross-examination the workman admitted that besides him Shri Pawar is also a Head Security Guard and that he works directly under the Manager and not under the Head Security Guard named by him.

8. On behalf of the management M.W. 1, Shri Sudhir Kumar Mukherji has been examined. According to him, the employees working as Security Guard work under the direct control and management of the Chief Security Officer for the whole of the Western Coalfields Limited; that in the area there are Area Security Officers, Security Inspectors, Security Sub-inspectors and that all the personnel in the security section work under the Manager but for day to day working and for other purposes also they are under the Chief Officer of the Department. He further states that the post of Head Security Guard can be filled in by the Chief Security Officer on a proper proposal being made to him in that behalf. He also says that promotion of Security Guards to the post of Head Security Guard is made only after the recommendations of the Departmental Promotion Committee. Regarding the administrative control of the Security Section of the management he says it is that the Chief Security Officer and that the Manager by himself cannot order a promotion without the recommendations from the Chief Security Officer.

9. From the aforesaid evidence it could thus appear that the main grounds on which the management seeks to contest the claim of the workman are :—

- (a) That there has been no formal appointment of the workman as a Head Security Guard; and
- (b) That the power of appointment as Head Security Guard vests in the Chief Security Officer and not with any other Officer of the management.

Both these contentions, in my opinion, are untenable.

10. As already referred to above in para 7 the management has described the workman either as a Head Security Guard or as a Head Chowkidar or as Security Incharge of the Colliery. The management, however, relies on office order dated 24th April, 1977 by which the Managing Director had delegated his powers to the Chief Security Officer not only to transfer a security personnel from one place to another but also to promote and appoint persons against the sanctioned posts on the Wage Board scale of pay upto the level of Asstt. Security Officer. A Head Security Guard, according to the management, is a workman lower in rank to the Assistant Security Officer. Thus, by virtue of this delegation of power, only the Chief Security Officer could not only appoint but promote also a Security Guard to the post of head Security Guard. This delegation of power, according to the learned Counsel for the management, had divested the Managing Director of all his powers to appoint and promote the workman in the category of Security Guards. This contention cannot be accepted.

11. Once an officer invested certain powers duly authorises and delegates all or some of his powers to some other officer, then the person so delegating the powers is not completely divested of those powers which he delegates. This legal position is fully supported by the full Bench decision of the Madhya Pradesh High Court *Hastimal vs. State of Madhya Pradesh, Bhopal and others* (1972 M.P.L.J. 660) where the question was about the delegation of powers by the State Government to the Board of Revenue and about exercise of the same powers by the authority delegating these powers. Relying on an earlier decision of the same High Court in *Achchalal vs. Janpada Sibha, Sihore* (AIR 1963 M.P. 74) and the decision in *Huth vs. Clarke* (1890) 25 Q.B.D. 391 (395) it was held that even in the event of certain delegation of powers the authority delegating the powers does not exhaust its powers originally conferred on him by statute and that the word 'delegation', as generally used, does not imply

a parting with power by a person who grants the delegation but points rather to the conferring of an authority to do things which otherwise that person would have to do himself. In view of this decision, the contentions of the management that by virtue of the aforesaid delegation the management completely divested itself with the powers of appointing anyone as Head Security Guard cannot be accepted.

12. The next question is as to whether the workman had been duly appointed as a Head Security Guard. How and under what circumstances the management described the workman as a Head Security Guard/Head Chowkidar/Security Incharge in the documents referred to in paragraph 7 above has not been explained. But it is, however, clear that at some stage the workman was treated as a Head Security Guard by the management itself. If the management chooses to remain silent on this question then the workman cannot be blamed. Therefore, there is no substance in the contention that no formal orders were passed for appointment of the workman on the post claimed by him.

13. There is yet another point which in my opinion concludes the issue between the parties.

The matter was before the conciliation Officer and during these conciliation proceedings a settlement Ex. W/1 was arrived at between the management and the Union representative. The settlement was recorded on the prescribed form 'H'. According to the settlement, both parties agreed that the workman, Shri Ramashankar Yadav will be regularised on the post of Head Security Guard with effect from 1st April, 1978; that there will be no arrears of wages whatsoever due to this promotion for the period prior to 1st April, 1978 and that workman, Shri Ramashankar's posting shall be decided by the General Manager and Shri Ramashankar will be posted at any of the units of Wardha Valley Area. The management was represented by Shri J. K. Ghosh and the Union was represented by Shri R. C. Pandey. When the Deputy Personnel Manager representing the management entered into the settlement with the workman through his union representative and agreed to promote the workman on the post of Head Chowkidar (Head Security Guard) then how can the management now turn round and say that Shri J. K. Ghosh, who represented the management in the conciliation proceedings, had no authority. The authority of Shri J. K. Ghosh was challenged on the ground that it was the Chief Security Officer alone who could exercise the authority on behalf of the management for promotion. I have already considered above that the management, despite these delegations, had the authority to exercise the powers of promotion and if a senior official representing the management had entered into settlement then the settlement is binding on the management and cannot be avoided.

14. Thus considered from every point of view, I think that the contentions raised on behalf of the management cannot be accepted. In view of this settlement dated 12th June, 1978 referred to above between the management and the workman's union representative, the workman shall be deemed to have been promoted on the post of Head Chowkidar/Head Security Guard from 1st April, 1978. He shall consequently be entitled also to the wages of a Head Chowkidar/Head Security Guard from 1st April, 1978 with all consequential benefits.

15. Accordingly for the reasons given above, the following award is given.

"The action of the management of Western Coalfields Limited, Nagpur in denying the designation/grade and scale of Head Security Guard, Shri Ramashankar Yadav of Mahakali Colliery in Wardha Valley Area was not justified. The workman is, in pursuance of the settlement dated 12th June, 1978, entitled to the designation/grade and scale of the Head Security Guard with all consequential benefits with effect from 1st April, 1978."

In the circumstances of the case I leave both the parties to bear their own costs as incurred.

S. R. VYAS, Presiding Officer
[No. L-18011(5)/79-D.IV(B)]

New Delhi, the 4th January, 1982

S.O. 160.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Monoharbahal Colliery of Eastern Coalfields Limited, P.O. Kanyapur, District Burdwan and their workmen, which was received by the Central Government on the 28th December, 1981.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 69/8)

PRESENT:

Shri J. N. Singh, Presiding Officer.

PARTIES:

Employers in relation to the management of Monoharbahal Colliery of Eastern Coalfields Ltd., P. O. Kanyapur, District Burdwan.

AND

Their workmen.

APPEARANCES:

For the Employers—Shri T. P. Chowdhury, Advocate.
For the Workmen—None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 22nd December, 1981

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them u/s. 10(1)(d) of the Industrial Disputes Act, 14 of 1947 has forwarded the dispute to this Tribunal for adjudication under Order No. L-19012/46/80-D.IV(B) dated the 21st/25th November, 1980.

SCHEDULE

"Whether the action of the management of Monoharbahal Colliery of M/s. Eastern Coalfields Ltd., P. O. Kanyapur, District Burdwan in refusing employment of Sarvashri Kanta Kumari and 14 others as per list below, was justified? if not, to what relief are the concerned workmen entitled?"

LIST

1. Sri Kanta Kurmi.
2. Sri Chatu Rajbhar.
3. Sri Molai Nunia.
4. Sri Premchand Bhar.
5. Sri Nagina Harijan No. 2.
6. Sri Surajdeo Mistry.
7. Sri Sadabrich Harijan.
8. Sri Gurou Harijan.
9. Sri Pujan Kurmi.
10. Sri Babulal Harijan.
11. Sri Rambrich Kahar.
12. Sri Feku Harijan.
13. Sri Nageswari Rajbhar.
14. Sri Pardeshi Kurmi.
15. Sri Rupan Harijan.

2. The case of the Union is that the concerned workmen numbering 15 and 45 others are permanent workmen of Monoharbahal Colliery of M/s. Eastern Coalfields Ltd. In the month of August, 1971 these 60 workmen including the 15 concerned workmen were driven out by a section of workmen of Monoharbahal Colliery aided and abetted by the management and in spite of representations made by the Union to various authorities including the Police the workmen could not get in. After some persuasions 20 workmen

were allowed to work. 9 got their employment elsewhere and one worker died at the colliery and out of the remaining 30, 15 were provided with employment in different collieries and the remaining who are concerned in the present reference were refused employment by the management.

3. It is submitted that after the nationalisation of the colliery the matter was again taken up with the Custodian Coal Mines Authority (C.M.A.) and a settlement was arrived at under which the C.M.A. agreed to take back the concerned workmen in service. Accordingly joining slips were issued to these 15 workmen but again the management played the trick and by manuevering a section of the workmen refused employment to them. Union then took up the case of these workmen with the Conciliation Officer which ended in the present reference.

4. On behalf of the management the defence is that the present reference is illegal, invalid and without jurisdiction as on the admitted case of the workman the employers never refused employment to them. On the contrary the concerned workmen who were issued joining slips did not join due to interference/resistance of some workers of Monoharbahal Colliery itself and in such circumstance there cannot be any reference for adjudication of the alleged action of the management in refusing employment to them.

5. It is submitted that on 14-6-1973 there was a bipartite settlement between the management represented by O. S. D. (Personnel) of the C. M. A. and the General Secretary of the C.M.S.I. (CITU) under which 40 workmen as per list attached to the settlement were not taken back in pursuance of an earlier settlement was agreed to be reinstated in Monoharbahal Colliery within 30 days on their reporting to the Manager within that period. It, however transpired that in August 71 due to some sort of union rivalry 60 workmen were not allowed to work by rival group and thereafter 20 could be provided with work on the basis of the said settlement. Further in pursuance of the said settlement joining slips were issued by the Manager to the concerned workmen, but again they were not allowed to resume their duties by the so called rival gang so much so even the presence of Police which had been secured by the management borne no effect.

6. It is submitted that the management did all that was possible for them and so the management cannot be asked to explain as to why the concerned workmen did not resume their duty. It is further submitted that when the facts were disclosed before the A. L. C. no reasonable opportunity was given to the management to explain their stand at the conciliation and the Conciliation Officer proceeded ex parte which resulted in the present reference. It is stated that the management never refused employment to the concerned workmen at any time and hence the question of justification of the so called refusal of the employment does not arise at all because the workmen never joined their duties.

7. The point for consideration is as to whether the management of Monoharbahal Colliery in refusing employment to the 15 concerned workmen mentioned in the schedule of reference was justified. If not, to what relief are the concerned workmen entitled.

8. It may be mentioned that after the filing of the written statement the union did not turn up at the time of hearing of the case. The management however examined two witnesses in support of their defence. MW-1 is Sri Sisir Kumar Choudhury of present working as Senior Personnel Officer under Eastern Coalfields Ltd. He has stated that the concerned colliery as also other collieries were under Sitarampur Sub-Area where he served as Personnel Officer from 1973 to 1976. Monoharbahal Colliery is one of the collieries under the said Sub-Area. It is further stated by him that in June or July 1973 he received an instruction from the headquarter at Sanctoria that these 15 concerned workmen mentioned in the reference should be allowed to work in Monoharbahal colliery. Accordingly the Manager of the colliery was instructed by the Sub-Area Manager to allow these workmen to work and when these workmen appeared the Manager issued them joining slips individually. These workmen went to the lamp cabin to collect their lamps for duty where a large number of workmen said to be members of I. N. T. U. C. surrounded them and did not allow them to do their duty. The Sub-Area Manager was informed on phone by the Manager who deputed this witness to

go to Monoharbahal colliery with Police. The witness went to Kanyapur Police Output and then proceeded to colliery with police force where he found the concerned workmen taking shelter in the Manager's office and a large number of workers were collected in front of the office. The Police asked the concerned workmen to go to their duty under their protection, but the concerned workmen being very much afraid and panicky did not join and requested the Police to escort them to Asansol. The police accordingly requisitioned a truck and took them away and thereafter the concerned workmen never came to join. He has further stated that when the matter was taken up for conciliation he along with Mr. Asraf, Chief Personnel Officer went before the A. L. C. and requested him to visit the colliery and settle up the matter, but instead of settling up the matter the A. L. C. sent an ex parte report. According to this witness the concerned workmen were never refused employment.

9. MW-2 Sri C. R. Mukherjee, Agent who was Manager of Monoharbahal colliery in October, 1973 has stated that during his tenure of office none of the concerned workman appeared before him and complained about so called refusal and later on enquiry he learnt the facts as stated by MW-1.

10. Thus from the evidence of the above two witnesses it is clear that employment was never refused to the concerned workmen by the management as alleged. Rather joining slips were also issued to them but they were not allowed to join by the rival union even when the Police came to their rescue. In spite of presence of the Police the concerned workmen refused to join their duty due to fear of the rival union.

11. It was submitted on behalf of the management that the management never refused them employment and so the entire reference is incompetent. On my query the learned Advocate for the management replied that even now if the concerned workmen approach the management, the management may consider their case for employment not in Monoharbahal colliery but elsewhere.

12. Thus on consideration of the evidence, I hold that the concerned workmen were never refused employment by the management and hence the reference in question is not competent and the concerned workmen are not entitled to any relief.

13. I give my award accordingly.

I. N. SINGH, Presiding Officer
[No. L-19012(46)/80-D.IV(B)]
S. S. MEHTA, Desk Officer

नई दिल्ली: 19 दिसम्बर 1981

क्रा० प्रा० 161—केन्द्रीय सरकार, चूना पत्थर और डोलोमाइट खान श्रम कल्याण निधि नियम, 1973 के नियम 3 के उप-नियम (2) के माग पठित चूना पत्थर और डोलोमाइट खान श्रम कल्याण निधि अधिनियम, 1972 (1972 का 62) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तमिलनाडु राज्य के लिए सलाहकार समिति गठित करती है, जिसमें निम्नलिखित सदस्य होंगे, अर्थात्—

1. श्रम राज्य मंत्री, तमिलनाडु — अध्यक्ष
2. श्री एच० एच० कुरैशी, चूना पत्थर और डोलोमाइट खान कल्याण आयुक्त नं० 75, मिलर रोड, बंगलौर । — उपाध्यक्ष-पदेन
3. सहायक श्रमायुक्त (केन्द्रिय), मद्रास — केन्द्रिय सरकार का प्रतिनिधि-पदेन
4. थिरु एम० शिन्सेट, एम० एल० ए., कंदनविलाय—तमिलनाडु राज्य विधान नैयर् (बाया) कन्पाकुमरी जिला, तमिलनाडु रक्षा का सदस्य
5. श्री के० राममूर्ति, कार्यपालक निदेशक, इंडिया सीमेंट लि०, चूना, बिरिडग, 827, भन्नामालाये मद्रास 600002 } चूना-पत्थर और डोलोमाइट खान मालिकों के प्रतिनिधि
6. थिरु एस० थोन्थियापन, एम० एस० सा० महा-प्रबंधक तमिलनाडु मिनरल्स लि०, 9, हबीबुल्ला एबीयु एंहरसन रोड, मद्रास-600006 }

7. श्री एम० कल्याणसुन्दरम, सहकार सैक्रेटरी, तमिलनाडु स्टेट, 69 डा० सुब्बारायन रोड सेलम }
 चूना पत्थर और डोलोमाइट खान }
 8. श्री श्री० एस० जयरामन, मार्फत एटक को सेलम } माइट }
 जिला समिति, 48 डा० सुब्बारायन रोड, निधि }
 सेलम 636001 }
 9. श्रीमती भवानी पालानियामम, न० 15, टी० महिला प्रतिनिधि }
 बी० गोविन्द स्ट्रीट था० टूपात्तायम, पेरियार, ईरोड (काया) पेरियार जिला ।

2. चूना पत्थर और डोलोमाइट खान श्रम कल्याण निधि संगठन का प्रशासन इस मलाहकार समिति का सचिव होगा तथा उनका मुख्यालय बंगलौर में होगा ।

3. चूना पत्थर और डोलोमाइट खान श्रम कल्याण निधि नियम, 1973 के नियम 18 के अनुसरण में केन्द्रीय सरकार उक्त मलाहकार समिति का मुख्यालय बंगलौर निर्धारित करती है ।

[संख्या यू-23018/13/80-एम-—V]

New Delhi, the 29th December 1981

S.O. 161.—In exercise of the powers conferred by Section 6 of the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972 (62 of 1972) read with sub-rule (2) of the rule 3 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973, the Central Government hereby constitutes an Advisory Committee for the State of Tamilnadu consisting of the following members, namely :—

- | | |
|--|---|
| 1. Minister of State for Labour, Tamil Nadu. | Chairman |
| 2. Shri, H.H. Qureshi, The Limestone and Dolomite Mines Welfare Commissioner, No. 75, Miller Road, Bangalore. | Vice Chairman
ex-officio |
| 3. Assistant Labour Commissioner, (Central) Madras | Central Government representative-
ex-officio |
| 4. Thiru. M. Vincent M.L.A., Kandanvillal Neyyoor (Via) Kanyakumari District, Tamil Nadu. | Member of the
Legislative Assembly
of the State of Tamil
Nadu. |
| 5. Shri K. Ramamurthy, Executive Director, The India Cements Ltd., 'Dhun Building', 827, Anna Salai, Madras-600002. | Representatives of the
Limestone and Dolomite
Mine Owners. |
| 6. Thiru, S. Thonthlappan, M.Sc., General Manager, Tamil Nadu, Minerals Limited, 9, Habibulla Avenue, Anderson Road Madras-600006. | |
| 7. Shri M. Kalyanasundaram Assistant Secretary, Tamilnadu, INTUC, 69, Dr. Subbarayon Road, SALEM | Representative of Lime-
stone and Dolomite
Mine Workers. |
| 8. Shri O.S. Jayaraman, C/o. The Salem District Committee of the AITUC, 48, Dr., Subbarayon Road, SALEM 636001 | |

9. Smt. Bhavani Palaniammal, No. 15, T.V. Govindan Street Thavittupalayam, Andhiyar, Erode (Via) Periyar District. Women Representative

2. The Welfare Administrator of the Limestone and Dolomite Mines Labour Welfare Fund Organisation, having his headquarters at Bangalore, shall be the Secretary of the Advisory Committee.

3. The terms of rule 18 of the Limestone and Dolomite Mines Labour Welfare Fund Rules, 1973. The Central Government hereby fixes Bangalore to be the headquarters of the said Advisory Committee.

[F.No. U-23018/13/80-M.V.]

नई दिल्ली, 31 दिसम्बर, 1981

का० प्रा० 162 —बीड़ी श्रम कल्याण निधि नियम, 1978 के नियम 3 के उपनियम (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्रम कल्याण संगठन, कर्मा के उप-कल्याण आयुक्त को बिहार राज्य के लिए बीड़ी श्रम कल्याण संगठन को राज्य मलाहकार समिति के सचिव के रूप में नियुक्त करते हैं ।

[यू० 23018/5/81-एम-V]

जगदीश प्रसाद, अवर सचिव

New Delhi, the 31st December, 1981

S.O. 162.—In exercise of the powers conferred by clause (b) of sub-rule (2) of rule 3 of the Beedi Workers Welfare Fund Rules, 1978 the Central Government hereby appoints Deputy Welfare Commissioner, Labour Welfare Organisation, Karma, as Secretary of the State Advisory Committee, Beedi Workers Welfare Organisation, for the State of Bihar.

[No. U-23018/5/81-MV]
JAGDISH PRASAD, Under Secy.

New Delhi, the 29th December, 1981

S.O. 163.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad in the industrial dispute between the employers in relation to the management of M/s. Bharat Coking Coal Limited, and their workmen, which was received by the Central Government on the 21st December, 1981.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under Sec. 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 42 of 1980

PARTIES :

Employers in relation to the management of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

PRESENT :

Mr. Justice B. K. Ray (Retd.) Presiding Officer.

APPEARANCES :

For the Employers.—Shri T. P. Choudhury, Advocate, with Shri R. S. Murty, Advocate.

For the Workmen of Bastacolla Colliery.—Shri D. Narsingh, Advocate.

For the Workmen of Murulidih Colliery.—Shri B. Lal, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 15th December, 1981

AWARD

By Order No. L-20025(25)/80-D. III(A), dated 28-12-1980, the Central Government being of opinion that an industrial dispute existed between the employers in relation to the management of M/s. Bharat Coking Coal Limited and their workmen in respect of the matters specified in the schedule attached to the order, referred the same for adjudication to this Tribunal. The schedule attached to the order reads thus.

"I—Whether the action of the management of Bastacolla Colliery of M/s. Bharat Coking Coal Ltd. in dismissing S/Shri Mahesh Prasad, Tyndal, Ramchandra Prasad, Tyndal and Israil Mian, Pump Khalasi, w.e.f. 13-9-80 was legal and justified? If not, to what relief the said workmen are entitled and from what date?"

"II—Whether the action of the Management of Murulidih Colliery of M/s. Bharat Coking Coal Ltd. in dismissing S/Shri Surendra Prasad Mechanical Fitter Abdul Jabbar, Mechanical Fitter and Rasid Khan, Tyndal with effect from 3-12-1980 was legal and justified? If not, to what relief, are the workmen entitled and from what date?"

2. It appears from the schedule mentioned above that two items of dispute have been referred. Its No. I relates to the action of the management of Bastacolla Colliery in dismissing three workmen, namely, S/Shri Mahesh Prasad, Tyndal, Ramchandra Prasad, Tyndal and Israil Mian, Pump Khalasi, with effect from 13-9-80. Item No. II relates to the action of the management of Murulidih Colliery of M/s. Bharat Coking Coal Ltd. in dismissing three workmen, namely, S/Shri Surendra Prasad, Mechanical Fitter, Abdul Jabbar, Mechanical Fitter and Rasid Khan, Tyndal, with effect from 3-12-80. The two items of dispute are distinct and separate from one another, one of them being of Bastacolla Colliery and other one being of Murulidih Colliery. The incident which resulted in dismissal of three workmen mentioned in first item of dispute is different from the incident which resulted in dismissal of three workmen of Murulidih colliery. The impugned orders of dismissal as appears from the schedule had not been passed on the same day. It is only because all the workmen in both the items of dispute belong to one union, namely, Coal Mines Engineering Workers Association, the two items of dispute have been covered under one reference. The union sponsoring the cause of the workmen in first item of dispute is represented before the Tribunal by Mr. D. Narsingh, Advocate, whereas the union sponsoring the cause of the workmen in the second item of dispute is represented by Mr. B. Lal Advocate. The pleadings filed by the parties as well as the evidence in respect of first item of dispute are separate from the pleadings and evidence in respect of the second item of dispute. On account of this for each item of dispute hearing has been done separately and so cases of the workmen in each of the items of dispute have been dealt separately.

3. I shall now take up the first item of dispute relating to Bastacolla Colliery. After receipt of the reference and after notice to the parties they have filed their respective written statements and the union has filed a rejoinder also.

The case of the union as made out in its pleading is as follows. On 21st July, 1979 the three workmen were served with three chargesheets containing almost identical facts, and it was said in the chargesheets that they were guilty of misconduct under different provisions of the Standing Orders. In the chargesheets the workmen were also called upon to submit their explanations within a given time. The allegations against them in the chargesheets were that on 21st July, 1979 at about 9 A.M. all the three workmen entered into

the Chamber of Sri K. C. Deo, Superintendent of Bastacolla Colliery and reported against the contractor Mustafa Ansari for not properly repairing the quarters of Mahesh Prasad that Superintendent on the report of the workmen called the contractor and enquired from him regarding the complaint that the contractor said that he had repaired the quarter properly, that while enquiry was being made from the contractor the workmen were in agitated mood and were talking in rough mood, that the Superintendent advised the workmen to remain calm so that he would personally look into the matter and that instead of keeping quiet all the three workmen started assaulting the Superintendent, Israil Mian with chappal and other two with slaps and fist-blows. The three workmen in their replies separately submitted denied the charges. The explanations thus submitted not being found satisfactory the management held a domestic enquiry. In the enquiry the three workmen were found guilty by the Enquiry Officer and on consideration of the report of the Enquiry Officer the management dismissed the three workmen with effect from 13th September, 1980. The union of which the workmen were members raised the dispute on the impugned orders of dismissal and the conciliation proceeding which ensued having failed the Central Government referred the dispute for adjudication. The domestic enquiry that was held was not fair and proper and the findings arrived at by the Enquiry Officer were not justified by the evidence led by the parties. The impugned orders of dismissal were mala fide and had been passed only to victimise the workmen for their trade union activities. In the criminal case which was started by the management after the alleged occurrence against the workmen having ended in acquittal and the judgement acquittal not having been taken into consideration by the management while passing the impugned orders of dismissal the said impugned orders must be held to be mala fide and could not be sustained in law. On these allegations a prayer is made for reinstatement of the workmen with full back wages.

The case of the management as revealed from its pleading may be stated in brief thus. The three concerned workmen on the alleged date of occurrence at 9 A.M. entered into the Superintendent's office while he was enquiring from Mustafa Ansari the contractor about the complaint of Mahesh Prasad that the former had not repaired the quarters of Mahesh Prasad properly and the contractor having told the Superintendent that he (contractor) had properly repaired the room of the house of Mahesh Prasad. That assertion of the contractor being denied by the workmen present the Superintendent promised that he would himself enquire into the matter. Even when the Superintendent assured the workmen that he would himself enquire into their complaint the workmen who were in agitated mood in spite of advice of the Superintendent to maintain peace started assaulting him. In course of the assault Israil Mian hit the Superintendent with Chappal whereas the two other workmen assaulted the Superintendent with slaps and fist-blows. Immediately after the occurrence the Superintendent informed the G.M., lodge an F.I.R. before the police regarding the incident of assault on him and lodged a written complaint before the management. On the complaint lodged before the management three separate chargesheets were issued against the three workmen under Paras 29(5) and 29(10) of the Standing Orders applicable to the colliery. Detailed descriptions of the allegations against the concerned workmen were given in the chargesheets and the workmen were called upon to show cause. The workmen in their replies having denied the charge the management held a domestic enquiry. In the enquiry which the workmen took part and were given full opportunity to cross-examine the management's witnesses and adduce evidence in support of their defence the Enquiry Officer found all the three workmen guilty of the charge. This report of the Enquiry Officer was considered by the management which having agreed with the finding against the concerned workmen dismissed the workmen by the impugned orders of dismissal. The misconduct alleged and proved against the workmen being of very serious nature punishment of dismissal passed by the management against them is fully justified and does not call for any interference.

4. The union having challenged fairness of the domestic enquiry in which the concerned workmen were found guilty the question of fairness of the enquiry was taken up for consideration as a preliminary issue and by order dated 28th July 1981 I held against the union and decided the preliminary issue in favour of the management by saying that

procedural part of the enquiry was fair and proper in all respects even though it was open to the union to challenge findings in the enquiry report on the ground that the evidence led in the enquiry did not justify the findings. After decision on the preliminary issue parties did not choose to adduce any further evidence and argued their respective cases on the basis of the evidence already recorded in the enquiry at the time of hearing on merit. The judgement of acquittal acquitting the concerned workmen in the criminal case which was instituted against them by the management on the very same allegations on which they were charge-sheeted has been given by Mr. D. Narsingh only to show that the criminal case ended in an acquittal. Mr. T. P. Choudhury appearing for the management does not object to this and so the judgement has been kept in the record without being marked as an exhibit for the purpose of showing that the criminal case against the three workmen ended in their acquittal.

Mr. D. Narsingh for the union first of all argues that the evidence recorded in the enquiry does not justify the findings arrived at by the Enquiry Officer. In the enquiry admittedly two witnesses were examined, namely, the Superintendent of the colliery who is alleged to have been assaulted by the three workmen and a Peon of his office, namely, Ram Prasad Beldar. The evidence of the Superintendent is as follows. On 21st July, 1979 while he was sitting in his office at about 9 A.M. he heard a noise outside. He, therefore, called a peon Ram Prasad Beldar and enquired from him about the noise. The Peon having told the Superintendent that a quarrel was going on between Mustafa, Contractor and Mahesh Prasad the Superintendent asked the peon to tell the quarreling parties not to make noise. When the peon had just gone out as desired by the Superintendent to ask the quarreling parties to stop noise the contractor entered into the Superintendent's office and complained that Mahesh Prasad was giving threat to assault him. While the contractor was complaining all the three concerned workmen being called by the Superintendent entered his office. After entering into the office Mahesh Prasad told the Superintendent that the contractor had not repaired his house properly and had damaged the roof. On being told like that the Superintendent assured Mahesh to enquire into the matter and to effect repair, if not done. At that time Mahesh and Israil being in angry mood asked the Superintendent to go immediately for enquiry. The Superintendent replied that if an enquiry the complaint of Mahesh Prasad would be found to be untrue the Superintendent would take action against the workmen. On saying the Superintendent asked the workman to keep quiet. At that time Israil was abusing the Superintendent and saying that he would like an immediate decision. On being told like this Superintendent rebuked the workmen as he felt that they being in an angry mood were likely to do some mischief. Immediately thereafter Ram Chandra Prasad assaulted the Superintendent by hand and when the Superintendent tried to escape Mahesh Prasad assaulted him (Superintendent) by hand. In the meantime Israil with his chappal assaulted the Superintendent. Ram Prasad, Peon, tried to prevent the workmen from assaulting the Superintendent. It was at that time others entered into office room, whereafter the Superintendent came out of his office. The evidence of the Superintendent further reveals that the three concerned workmen entered into the office being sent for by the Superintendent himself through the peon. The evidence of the peon on the other hand reveals that he was inside the office when the contractor Mustafa Ansari and the three concerned workmen were talking with the Superintendent in his office. It is, therefore, clear that this witness was inside the office from the very beginning and witnessed the assault on the Superintendent. But curiously this witness only speaks of assault by Israil Mian on the Superintendent by chappal and does not implicate the other two workmen. Thus it is argued by Mr. D. Narsingh that there is contradiction between the evidence of the Superintendent and that of the peon. While the former implicate all the three concerned workmen the latter only implicates one. This according to Mr. Narsingh is a very serious contradiction. So on the evidence of these two witnesses for the management atleast Mahesh Prasad and Ramchandra Prasad cannot be found to be guilty of the charges levelled against them. On behalf of the management it is argued by Mr. T. P. Choudhury that when an incident takes place each and every witness to it is not expected to depose about each part of the incident. Therefore, merely because the peon does not implicate Mahesh Prasad and Ramchandra Prasad the case of the management cannot be thrown out, the same having been supported in its entirety by the

Superintendent. It is further argued that instances are not rare where the solitary evidence of the person assaulted may be sufficient to punish the assailant. All these submissions of Mr. Choudhury may be true where there is a large mole of persons engaged in rioting. In such a case it is possible that one witness implicates only some of the persons in the mole while another implicates other persons. In a case of this nature the argument of Mr. Choudhury may hold good and it can be said that merely because all the witnesses do not implicate all the accused persons the prosecution case can not be thrown out. But where the occurrence involves only four persons of which three are assailants and the other one is the person assaulted as in the present case and the occurrence takes place inside a room where the only one witness present inside the room implicates only one assailant and does not implicate the other two it is very difficult to say in such a case that even though the witness present has not implicated all the three assailants still it must be held that all the three took part in the assault on the basis of the evidence of the person assaulted. So in my view there is serious contradiction between the evidence of the Superintendent and that of the peon. The other argument of Mr. Choudhury that even the solitary evidence of the person assaulted is sufficient to rope all the three assailants is not applicable here in as much as other witnesses besides the person assaulted being examined do not support the story of assault in its entirety. As had been noticed earlier the peon does not corroborate the Superintendent so far as the case against Mahesh Prasad and Ramchandra Prasad is concerned. So against these two persons there is only the uncorroborated testimony of the Superintendent. That apart the evidence in the enquiry discloses that Mustafa Ansari the contractor was also present inside the room when the assault on the Superintendent took place. That being so the management does not explain why this witness has been withheld who is admittedly a witness to the occurrence. A vague attempt is made by the learned counsel for the management to get over the lacuna by saying that examination of the contractor would not have improved the matter as he was admittedly hostile to the concerned workmen and so if he would have been examined he would have been branded as a hostile witness. I do not accept this explanation. In the case where only two witnesses, namely, Peon and contractor are available besides the person assaulted, namely, the Superintendent and when there is discrepancy in the evidence of the peon and that of the Superintendent it was incumbent on the management to examine the other available witness to the occurrence whatever may be his character. Therefore I hold that the management is guilty of suppression of material evidence by not examining the contractor. Regarding the evidence of the peon Mr. Choudhury relying upon para 13 of the supplementary explanation submitted by the workman says that as per the case of the workman the peon was not inside the office room when the incident of assault took place. Therefore when this witness implicates only one workman and does not implicate the other two no serious notice should be taken of that. I am afraid this argument of Mr. Choudhury is of no avail in view of positive statement of the peon himself that from the very beginning when the talk was going on between the three workmen, the contractor and the Superintendent inside the office room, he (peon) was there. This shows that the peon was there from the beginning to the end. If that be so non-implication by the peon of the two concerned workmen, namely, Mahesh Prasad and Ramchandra Prasad is a serious lacuna in the prosecution evidence which cannot be filled up. Mr. Narsingh then invites my attention to the F.I.R. which was lodged by the Superintendent immediately after the occurrence. This document is Ext. M-10(a). This is the first contemporaneous document regarding the alleged incident. A reading of this document shows that part played by each of the three workmen has not been mentioned in it. Mr. Narsingh therefore argues that if the story of assault by chappal by Israil Mian and if the story of assault by the other two workmen by dealing slaps and first-blows were really true these facts must have been narrated in the F.I.R. The F.I.R. only in a general way says that the three workmen man-handled the Superintendent. So it is argued by Mr. Narsingh that the story of assault as mentioned in the charge-sheet must be false. In this connection Mr. D. Narsingh invites my attention to the written report Ext. M-10 of the Superintendent to the management after the occurrence. So far as this document is concerned it narrates in details the part played by each of the three concerned workmen. It is, therefore, argued by Mr. D. Narsingh that the detailed narration in Ext. M-10 is a subsequent development. Admittedly Ext. M-10 was written after F.I.R. was lodged. These contentions

of Mr. Narsingh appear to be well founded. Omission regarding the part played by each of the three concerned workmen in the F.I.R. Ext. M-10(a), the contradiction between the evidence of the peon and that of the Superintendent, the non-examination of the contractor in the enquiry and the detailed narration regarding part played by each of the three concerned workmen in Ext. M-10 the written report submitted to the management which is subsequent to lodging of F.I.R. throw a great doubt on the management's case and on account of these infirmities it is not possible to say that the management established its case in course of the domestic enquiry. On reappraisal of the evidence led in the enquiry I hold that the findings arrived at by the Enquiry Officer against the three concerned workmen are not justified in view of the serious infirmities pointed out above. No attempt has been made by the Enquiry Officer to notice the aforesaid infirmities. The judgement of the criminal court which has been filed in the case also shows that the prosecution failed to establish its case against the three concerned workmen regarding the very occurrence which is the subject matter of the present reference. Mr. D. Narsingh further submits that occurrence in the case took place on 21st July, 1979. The enquiry report is dated 16th November, 1979 and the orders of dismissal are dated 30th September, 1980. It is argued by him that there is no reason why even though enquiry report was submitted on 16th November, 1979 it took almost a year for the management to pass the impugned order of dismissal in 1980. This unusual delay in passing the orders of dismissal indicate that the management was hesitating on the evidence recorded in the enquiry the finding arrived at by the Enquiry Officer were justified. So it was waiting for the criminal court judgement. But when it was found that the criminal court judgement was one of acquittal the management in a vindictive spirit passed the impugned orders of dismissal on the basis of the findings arrived at by the Enquiry Officer. The submission of Mr. Narsingh is not without force. I have already held that the evidence recorded in the enquiry is not only insufficient but also discrepant. There are however, authorities to show that where a criminal case ends in acquittal against the workmen the domestic enquiry against them regarding their misconduct should take into consideration the judgement of acquittal in the criminal court and when it is not done the finding in the report that the workmen are guilty should be held to be mala fide. These authorities however have no application here because the enquiry report was submitted before pronouncement of the judgement of acquittal. So it cannot be said that the report is mala fide as it could not have considered the judgement of acquittal. But the long delay of about one year after the enquiry in passing the orders of dismissal is a circumstance no doubt in favour of the workmen. On the analysis as aforesaid I held that the evidence of the management against the concerned workmen is very much discrepant and too insufficient and that on the basis of such evidence management cannot be said to have established its case. The telling circumstance against the management discussed above also throw a great deal of doubt on the management's case as a whole. It is well established that in industrial law also the benefit of reasonable doubt on facts if there be such doubt must go to the weaker section, i.e. labour and the Tribunal in such a case will disposed of the case accordingly. See 36 F.I.R. 217 (SC) (K. C. P. Employees' Association Vs K. C. P. Ltd.).

5. For the reasons stated above I agree with Mr. D. Narsingh that the findings arrived at by the Enquiry Officer against the three concerned workmen are not justified and so also the impugned orders of dismissal passed against the concerned workmen, on the basis of these findings. The three concerned workmen are, therefore, entitled to reinstatement with full back wages from the date of their dismissal in case they report to duty within one month from the date of publication of the award.

6. I shall now take up the second item of dispute. In this case the union challenges the order of dismissal of three workmen and claims their reinstatement with full back wages. It may be mentioned here that the three concerned workmen in this case together with another four workmen in Ref. No. 8 of 1981 were separately charged for various misconducts relating to a common incident under Standing Orders. The allegations against them are as follows. On 11th April, 1978 at about 8 A.M. one Sonaram Mahato was carrying coal in a bullock cart and while he was passing through the check post of the colliery the security personnel there did

not allow Sonaram to carry coal in the bullock cart on the plea that he was carrying more coal than what was allotted to him. When excess coal was thus being unloaded by the security personnels at the check post one Bhaktu Mahato a concerned workman in Ref. No. 8/81 intervened and objected to the unloading saying that when the security personnel were allowing free pass to truck loads of coal they were simply harassing the poor workman. This resulted in a scuffle between Bhaktu Mahato on the one hand and the security personnel on the other. Bhaktu Mahato got so much annoyed with the security personnel that he caught hold of the collar of shirt which Mr. Mcsain, Platoon Commander was wearing. The Platoon Commander released himself by pushing Bhaktu Mahato.

Thereafter Bhaktu Mahato ran to the G.M. and lodged a complaint about the harassment of the security personnel. The General Manager assured Bhaktu that he would enquire into the matter and would punish the guilty. Thereafter Bhaktu Mahato came to the gate of the G.M.'s office collected a crowd of workers and outsiders near the gate. The entire crowd was armed with lathis, iron rods etc. When the inspector (home guard) accompanied by sub-inspector (home guard) B. N. Yadav reached the gate where the crowd had gathered and the inspector after going near the crowd were enquiring the reason of the gathering the people in the crowd threw stones, lathis and iron rods at the security personnel. The inspector in order to save himself and the sub-inspector who was with him fired at the mob as a result of which Bhaktu received bullet injuries in the lower part of his abdomen and his left hand. Bhaktu as a result of the injuries fell down and the crowd which had gathered at the gate chased the security personnel. The inspector and the sub-inspector being chased ran towards the check post and at a short distance from the check post a mob of 10 to 12 persons armed with lathis and blades assaulted the inspector and the sub-inspector injuring both of them. The inspector succumbed to the injury at the hospital three hours after the assault. Thereafter at about 12 noon a crowd including some of the concerned workmen in this case as well as in Ref. No. 8/81 entered into the office room of the G.M. and Surendra Prasad one of the concerned workmen who was in the crowd rebuked the G.M. in abusive words and threatened him. No assault could however take place inside the office room of G.M. due to the intervention of the other officers present there. Subsequent to that all the concerned workmen in this case as well as in Ref. No. 8/81 instigated the people to resort to an illegal strike. Accordingly there was an illegal strike as a result of which the concerned colliery together with adjoining collieries were closed for about six days causing huge loss to the company. The chargesheets issued against all the concerned workmen in both the cases were almost same except that the chargesheet against Bhaktu Mahato only contained the allegation against him at the check post regarding his quarrel and scuffle with the security personnel there. All the workmen having denied the charges and the allegations made against them the management held a common domestic enquiry for all the workmen in which the Enquiry Officer having found all the workmen guilty management dismissed them from service by the impugned orders of dismissal. The evidence led in the enquiry is therefore common to this case as well as to Ref. No. 8/81. In the award that has been passed in Ref. 8/81 the three workmen, namely, Sachida Singh, Bihari Mahato, Nasir Mia have been held to be not guilty of the charges levelled against them and it has been held that they should be reinstated with full back wages. So far as Bhaktu Mahato is concerned he has been found guilty of riotous and disorderly behaviour and he has been allowed to be reinstated without back wages. In the present case Mr. B. Lal appearing for the union challenged the fairness of the domestic enquiry and so the management examined the Enquiry Officer and got all the documents including depositions and the report of the enquiry proceeding proved formally in the case. Mr. Lal challenged the fairness of the domestic enquiry on three grounds, namely, (1) G.M. who has appointed the Enquiry Officer in the present case is not competent to appoint Enquiry Officer, (2) in case the G.M. is held to be competent to appoint the Enquiry Officer he is the only person to issue the chargesheet and not the Suptd. and (3) the evidence recorded in the domestic enquiry does not justify the finding arrived at by the Enquiry Officer as per

his report. The points raised by Mr. Lal regarding fairness of the enquiry were heard while hearing the main case on merit with consent of parties.

7. I shall now deal the first two points raised by Mr. Lal regarding the fairness of the domestic enquiry. It is contended by the Union that Supdt. who is the manager of the concerned colliery is as per the provisions of the Standing Orders responsible for implementation of the different provisions of the Standing Orders. Therefore under the Standing Orders the Supdt. is the competent authority to initiate disciplinary proceeding and for that purpose to issue chargesheets to appoint Enquiry Officer to look into the report of the Enquiry Officer and to pass final orders on the report. In the present case admittedly chargesheets have been issued by the Supdt. Therefore, according to Mr. B. Lal he is the person to appoint the Enquiry Officer. Since this has not been done and the Enquiry Officer has been appointed by the G.M. the entire disciplinary proceeding is vitiated. This point of Mr. Lal has no substance. Standing Orders provide that either owner, or agent or Chief Mining Engineer can pass the order of dismissal. This provision means that these three persons can initiate disciplinary proceeding and take final action at the conclusion of the proceeding. Supdt. who is manager in the present case being the agent is competent to initiate a disciplinary proceeding. The Standing Orders further provide that no order of dismissal can be passed without the approval of the G.M. Therefore the normal position that the manager can initiate disciplinary proceeding and pass final orders therein has been given a go-bye in the Standing Orders itself by making a provision that no final order can be passed in a disciplinary proceeding without approval of the G.M. So far all practical purposes the G.M. who is the approving authority has the final say regarding action to be taken in a disciplinary proceeding. Necessarily the authority which vests in the Supdt. can also be exercised by the General Manager. In other words the G.M. as well as the Supdt. both have concurrent powers in initiating disciplinary proceeding and in taking all steps in the proceeding till a final order is passed. According to provisions in the standing orders Supdt. can not pass final order of dismissal unless the same is approved by G.M. The G.M. therefore being vested with power of approval can himself pass final orders in the disciplinary proceeding independently. So there is nothing wrong when the Supdt. issued the chargesheet and the G.M. appointed the Enquiry Officer. That apart when after issue of chargesheets G.M. appointed the Enquiry Officer it must be deemed that the G.M. gave his consent to initiation of disciplinary proceeding by Supdt. by issuing chargesheets. In this view, therefore, there was nothing irregular as contended by Mr. Lal when chargesheets being issued by Supdt. the G.M. appointed the Enquiry Officer. It is then contended by Mr. Lal that the records in the case show particularly the impugned orders of dismissal that the G.M. applied his mind to the findings of the Enquiry Officer against the concerned workmen and directed their dismissal. The Supdt. without applying his mind to the findings of the Enquiry Officer merely carried out the orders of G.M. by issuing orders of dismissal. According to Mr. Lal it is the authority that issued the chargesheets must apply its mind to the findings arrived at by the Enquiry Officer in the report and pass the final orders. The Supdt. alone having issued the chargesheets in the present case was the only person competent to apply his mind to the findings of the Enquiry Officer and to take a decision. Obviously as in the present case this has not been done and so the impugned orders of dismissal are not tenable in law. Here also I do not agree with Mr. Lal because as has already been observed above the G.M. being the competent authority to take action against the workmen when he has applied his mind to the report of the Enquiry Officer and has passed the orders of dismissal the said orders must be accepted to be valid in law. So far as the third point raised by Mr. Lal is concerned, namely, whether the evidence recorded in the domestic enquiry justifies the findings arrived at by the Enquiry Officer the same shall be taken up while dealing with the case on merit.

I shall now at this stage take up some preliminary objections for consideration raised by Mr. T. P. Choudhury learned counsel for the management. His first objection is that the available records in the case show that before the Central Government referred the dispute for adjudication

there was no demand by the union. Without a demand there can be no industrial dispute and so Central Government will have no jurisdiction to make a reference of a question for adjudication where there has been no demand. As a proposition of law the contention of Mr. Choudhury is well founded but looking to the pleadings of the management it appears that the management itself has made averment in the written statement that there was a demand by the union. That being so it is no longer open to Mr. Choudhury now to say that reference not having been proceeded by a demand the reference is invalid.

The next point urged by Mr. T. P. Choudhury is that the order of reference shows that the dispute is between the management of Murulidih colliery of M/s. B.C.C.I. and its workmen. The concerned workmen are not workmen of the colliery mentioned in the order of reference. They are really workmen of Murulidih 20/21 Pits Colliery which is a different colliery from Murulidih colliery. The two collieries have separate managements of their own. So, therefore, there can be no dispute as mentioned in the order of reference between the management of Murulidih colliery and the workmen in the present case. This may be as Mr. Choudhury says a clerical mistake on the part of the Central Government while making the reference. He also concedes that the Central Government after making the reference has the power to make corrections in the order of reference where the corrections are of clerical nature. So the only course left to the union now is according to Mr. Choudhury to move the Central Government to correct the clerical mistake that has crept into the order of reference. Unless the correction is made there can be no valid reference and this Tribunal will have no jurisdiction to answer the same. This contention of Mr. Choudhury is also devoid of any merit. True Murulidih colliery is different from Murulidih 20/21 Pits colliery. It is also true that the concerned workmen are workmen of the latter colliery and not of the former one. There is also no dispute that the two collieries are separately managed. But a reading of the pleadings of the parties in this case will go to show that they mean that the present dispute is between the management of Murulidih 20/21 Pits colliery and its workmen and not between the management of Murulidih colliery and the workmen. It is also admitted before me that dispute is really between the management of Murulidih 20/21 Pits colliery and the workmen and not Murulidih colliery. Parties also have not only before this Tribunal but also before the domestic enquiry have led evidence on the footing that the dispute is between the management of Murulidih 20/21 Pits colliery and its workmen. Such being the position merely because the order of reference only mentions Murulidih colliery parties having understood that by Murulidih colliery mentioned in the order of reference is really meant Murulidih 20/21 Pits colliery the reference cannot be said to be invalid as contended by Mr. Choudhury. I therefore hold that this reference has been made by the Central Government of a dispute between the management of Murulidih 20/21 Pits colliery and its workmen. The point raised by Mr. Choudhury, therefore, fails.

8. While coming to merit it is not necessary to narrate in detail the cases of respective parties as made out in their pleadings. Their respective cases will be taken into consideration while dealing with the case on its merit. As has been said above Mr. Lal's contention that the findings of the Enquiry Officer are not justified on the evidence recorded by him in the domestic enquiry will also be dealt with while discussing the case on merit. The case of the management is that on 11-4-78 while one Sonaram Mahato was carrying excess coal in a bullock cart he was detained and the excess coal was unloaded from his cart by the security personnel at the check post. This enraged Bhaktu Mahato who picked up a quarrel with the security personnel as a result of which there was a scuffle between Bhaktu Mahato on the one hand and the security men on the other. This case of the management is sought to be established from entry in the Coal Issue Register showing that on 10-4-78 one Sonaram Mahato was allotted six baskets of coal only. A cart load of coal according to the management being in excess of six baskets of coal the security personnel rightly detained the bullock cart and unloaded the excess coal. So Bhaktu Mahato had no business to intervene with the action of the security men and involve himself in the scuffle. According to union however, it was Bhaktu Mahato alone who

was carrying his own coal in a bullock cart and when he was passing through the check post security men demanded illegal gratification from him. Bhaktu having refused the demand he was assaulted by security men and was dragged to the barrack. It was at that time another witness who has been examined as a defence witness in the enquiry, namely, Jagdish Nath Pandey reached the place and saw Bhaktu Mahato being assaulted. Sri Pandey released Bhaktu from the clothes of the security men and accompanied him to the G.M.'s office where Bhaktu lodged a complaint against security men. Nothing has been elicited from this witness to discredit him. Sonaram Mahato who according to management was carrying excess coal in a bullock cart has also been examined as a defence witness in the enquiry who has said that he was not carrying coal in a bullock cart on 11-4-78. Management's witness Mukteswar Hazari who maintains the Coal Issue Register only says that on 10-4-78 there is an entry in the register showing that Sonaram Mahato was allotted six baskets of coal. This witness however, says that when coal is carried by a workman in baskets for each basket a slip is issued to him. These slips are to be presented by the workman at the check post and from the check post the slips are to come back to the Coal Issue Clerk. In the present case according to the Clerk the slips in the name of Sonaram did not come back. That shows Sonaram was not carrying. It is in evidence of the security men who have been examined in the case, namely, B. N. Yadav, Md. Mohsim and Balanath that they looked into the slips in the name of Sonaram. If that was so why were not these slips returned to the Coal Issue Clerk to be produced by him in the enquiry when he deposed? The story of Bhaktu that he himself was carrying coal is so that other hand corroborated by the evidence of G.M. who in his deposition admits that when Bhaktu complained before him (G.M.), Bhaktu said that when he was carrying his own coal in a bullock cart security men demanded illegal gratification from him and on his refusal to pay he was assaulted and dragged. The story of Bhaktu besides being corroborated by the evidence of G.M. also finds support from the evidence of Jagdish Pandey and Sonaram Mahato. It may be that Bhaktu was carrying coal without permission. But whatever it may be the management's case that Sonaram was carrying excess coal and that when excess coal was unloaded from his cart Bhaktu Mahato intervened and raised a quarrel cannot be accepted as true. In my award in Ref. No. 8/81 I have discussed this part of the management's case and have held that Bhaktu was carrying coal, that near the check post he was assaulted and dragged and that immediately thereafter he lodged a complaint before the G.M. against security men. My conclusion in this case, therefore, remains the same. Management's case further is that on hearing complaint from Bhaktu G.M. assured him that he would enquire into the matter and would punish the guilty. The further case of the management is that to enquire into the matter the G.M. called the inspector Mr. Trivedi over phone to his office. Bhaktu after being told by the G.M. that he would make an enquiry left the G.M.'s office and went near the gate of the office where he collected a crowd of workers and non-workers, armed it with lathis and iron rods and waited at the gate for arrival of the security men. When the inspector Mr. Trivedi accompanied by sub-inspector B. N. Yadav came near the gate of the G.M.'s office on a motor cycle driven by Navak, Ganesh Ram another security personnel the mob which had gathered at the gate including Bhaktu started hurling abuses against the security personnel and throwing iron rods and lathis at them. When the inspector went near the mob and was enquiring from the people in the mob about the reason of gathering people in the mob went on shouting "Maro Maro" and went on throwing lathis and iron rods at security men. The inspector in order to save himself and B. N. Yadav fired from his pistol as a result of which Bhaktu was injured and fell down. This version of the management's case is supported by management's witness B. N. Yadav, Md. Mohsim, Navak Ganesh Ram, Ramasray Singh and Siaram Sinha. It may be mentioned here that all these witnesses, except Siaram Sinha namely, B. N. Yadav, Md. Mohsim, Navak Ganesh Ram, Ramasray Singh are security men. It may also be borne in mind that from the very beginning there was a quarrel between Bhaktu on the one hand and security men at the check post on the other and in the quarrel according to Bhaktu Mahato he was assaulted and dragged. I have accepted the story of the union that Bhaktu was assaulted and dragged and rejected the management's case

that Sonaram was carrying excess coal in the bullock cart and that when the same was being unloaded Bhaktu intervened and raised a quarrel with security men. I have also accepted the case that Bhaktu Mahato immediately after being assaulted by security men lodged a complaint before the G.M. who assured Bhaktu that he (G.M.) would enquire into the matter and punish the guilty. That being so the statement of the witness mentioned above who are all security men has to be looked with caution. That apart when there has been admittedly a firing by the inspector it is very natural that the security people in order to justify the firing must come forward with a case that firing was resorted to in self defence. It is in this context the evidence of the aforesaid witnesses who belong to security staff has to be examined and the same cannot be accepted without due corroboration by other independent evidence. So far as corroboration is concerned there is absolutely no other independent witness except Siaram Singh. The evidence of aforesaid security men who have spoken about the mob near the gate of the G.M.'s office and about throwing lathis and iron rods, and stones by the people in the mob at the security men suffers from an inherent defect. The consistent story of B. N. Yadav and other security men is that when Mr. Trivedi and sub-inspector went near the mob and Mr. Trivedi was talking to the people in the mob brick batting was going on. The evidence is that lathis and iron rods were also being thrown at the security men. If such was really the situation one would normally expect some injury at that place on either Mr. Trivedi the inspector or B. N. Yadav the sub-inspector. But the admitted case is that these two persons were not injured at all at that place. The evidence of Ramasray Singh is very clear on the point who says that when Trivedi and B. N. Yadav were retreating towards check post they had no injury. This retreat took place after the firing and after Bhaktu was injured. Therefore, it is not possible to accept the evidence of security men that people gathered at the gate started throwing lathis and iron rods at the security men when they were near the gate before firing. The evidence of the G.M. before whom Bhaktu lodged the complaint and who saw the occurrence at the gate is to the effect that the crowd which had gathered at the gate had no weapons. Thus the management's case that the people gathered at the gate were armed with lathis and iron rods and that the people started throwing iron rods and lathis at the security personnel as soon as they approached nearer to the gate must fall to the ground. G.M. is a very responsible person and he cannot be believed to be telling lies. So this evidence of the G.M. contradicts the evidence of the security men who speak about throwing of lathis and iron rods at the security men near the gate. It is worthwhile at this stage to refer to the evidence of Siaram Sinha who is a non-security man who supports the story of the security men that people who had gathered at the gate of G.M.'s office had lathis and other weapons in their hands and started throwing them at the security personnel before firing. This witness says that on the alleged date of occurrence when he went to the area office which is the same office where the G.M. holds his office at about 9 A.M. he saw 15 to 20 persons standing outside the office. He names one of the concerned workmen, namely, Abdul Jabbar to be present in the mob. According to the witness the people were armed with lathis and bhalas. The witness questioned the people in the mob and was told that the security men had unloaded the coal. After all these the witness silently comes to office and does not report about the gathering to the G.M. who was in his office according to the evidence of the witness till he heard that Bhaktu and the security inspector had been injured. This witness also speaks of another mob which entered into the G.M.'s office sometime after firing. The people in the mob according to the witness were loudly abusing the management. At the site of this mob the witness goes inside the manager's room and bolts the room from inside. If the witness is so timid as deposed by him it is very difficult to swallow his evidence when he says that after seeing an armed mob at 9 A.M. at the office gate and after ascertaining from the people in the mob that they were against security personnel, he silently went to his office without reporting about the gathering to the G.M. and kept quiet in his office till he heard about firing. The witness is a Suptd. Normally an officer of his rank when sees a mob armed with lathi and bhalas as spoken by the witness would immediately inform the G.M. who was available in the office and would take some preventive measure. The

conduct of this witness that after seeing the mob he silently went inside the office and long thereafter learnt in his office that Bhaktu Mahato and inspector have been injured does not inspire confidence. At the cost of repetition I may once refer to the evidence of this witness saying about another mob that entered into the office of the G.M. sometime after firing. The witness as disclosed from his evidence went inside the G.M.'s room out of fear and bolted the room from inside. If he was so much afraid of the mob that he confined himself inside the room by bolting it from inside is it possible that he would silently walk into his office after seeing the earlier mob armed with lathis and bhalas at the gate of G.M.'s office and after learning that they were waiting for the security personnel? So I do not place any reliance on this evidence. My conclusion is so far as the gathering at the gate of G.M.'s office is concerned that after Bhaktu lodged a complaint before the G.M. he was near the gate of the G.M.'s office where some people gathered. While all of them were there at the gate Trivedi inspector and B. N. Yadav sub-inspector came there and Trivedi went on asking the people in the gathering about the reason as to why they were there. While he was so enquiring the people in the crowd were expressing their sense of resentment at the security personnel on account of their action against Bhaktu and while so expressing their feelings they were also threatening to take revenge for assault on Bhaktu. But the people in the gathering had no lathis, bhalas or iron rods at that time and there was no brick batting. Seeing the people in the crowd in a threatening mood the inspector fired from his pistol from point blank range and injured Bhaktu. Thereafter when the people chased the security men they retreated toward the check post and near check post some 10 to 12 persons assaulted Trivedi and B. N. Yadav as a result of which Trivedi died. There is no evidence who constituted the mob consisting of 10 to 12 persons which assaulted Trivedi and B. N. Yadav near check post. So far as the mob at the gate of the G.M.'s office is concerned some of the management's witnesses have named Abdul Jabbar and Rasid Mia in the mob. The witnesses, however, do not implicate these two workmen with any over-act while they were near the office gate. None of the witnesses also say that these two workmen were abusing or threatening the security personnel. Further I do not accept the evidence of Mr. Mohsin and of Ramasray Singh saying that they recognised people in the mob at the office gate and saw some people in the mob throwing stones, iron rods and lathis at the security men at the gate because of these two witnesses Md Mohsin as per his own statement saw the occurrence from a distance of 50 to 100 Yards and the other witness Ramasray Singh saw the incident from a distance of 100 Yards while he was inside the workshop compound. On the analysis of the evidence regarding the occurrence at the gate of G.M.'s office at 9 A.M. on 11-4-78 I hold that management has not proved by any cogent evidence that any of the concerned workmen in the case is guilty of riotous and disorderly behaviour either on account of his being present in the mob at the G.M.'s office gate or of threatening or of abusing the security personnel there at the gate or of throwing stones or lathis or iron rods at the security men. So far as the mob which entered into the G.M.'s office after the firing the evidence of K. N. Ojha is that Surendra Prasad was inside the mob. The witness also says that he saw Surendra Prasad charging the G.M. for murder and saw Surendra shouting "blood for blood". The evidence of the G.M. is to the effect that Surendra Prasad after entering into the office room alongwith 25 to 30 others not only threatened the G.M. but tried to strangle him. K. N. Ojha and G.M. although have said about Jabbar being in the mob which entered the G.M.'s office, they have not spoken about any part to have been played by Jabbar in the occurrence. So my conclusion is that Surendra Prasad alone is guilty of riotous and disorderly behaviour which he showed inside the office room of the G.M. So far as Jabbar is concerned his mere presence would not show that he is guilty of misconduct or disorderly and riotous behaviour. Coming to the next part of the management's case that at as result of the instigation of the three concerned workmen in this case there was a general strike not only in the colliery concerned but also in other adjoining collieries, the evidence led by the management very vague and not at all definite and convincing. None of the management's witnesses deposes that he saw any of the three concerned workmen instigating the people to resort

to strike after the occurrence which took place in the morning of 11-4-78. Some of the witnesses although have said that they have seen Sachida not a concerned workman in this case occasionally addressing the workers to resort to strike. Such evidence cannot lead to the conclusion so far as the strike in question is concerned that any of the concerned workmen was responsible for the strike. No doubt there was a strike for six days and necessarily management sustained loss. But in the absence of any positive evidence that the three concerned workmen are responsible for the strike it is not possible to hold them guilty assuming the strike to be illegal resulting in loss to the management. The strike which did take place after firing is according to my assessment of the evidence an expression of protest by the workers in general against firing by the security personnel on an unarmed gathering which had gathered at the gate of the G.M. on 11-4-78 at 9 A.M. in course of which Bhaktu Mahato was injured.

For the reasons stated above I accept the finding of the Enquiry Officer that Surendra Prasad is guilty of riotous and disorderly behaviour. But so far as the punishment inflicted on him is concerned the same appears to be disproportionate. It appears from the evidence of K. N. Ojha that Surendra Prasad is an intelligent man but at times he loses his balance. Evidence shows that he is an educated person. On the alleged date of occurrence admittedly Bhaktu one of the workers was injured on the lower part of the abdomen and on the left hand as a result of firing by the security men. Thereafter some angry people chased Trivedi upto check post assaulted him as a result of which he died. Such being the situation on that date Surendra Prasad at about noon with some other workers entered the office room of the G.M. and in an angry mood misbehaved with him. In such circumstances Surendra Prasad should be taken to have lost his balance. In his statement in the domestic enquiry Surendra admits that he has respect for the General Manager and that only to show to the workers following him he posed to threaten the G.M. This explanation may not be true but it shows that he immediately realised that what he did to the G.M. was not desirable. It is also in evidence that in the afternoon when a procession of workers was passing by the G.M.'s office Surendra asked the G.M. to leave the office lest the processionists might do some mischief. This shows good intention of Surendra Prasad. Taking all these into consideration instead of dismissing him from service ends of justice will be met if he is reinstated without back wages provided he reports for duty within one month from the date of publication of the award. The less he would sustain by not getting back wages will be proportionate to the misconduct regarding disorderly and riotous behaviour of which he has been found guilty. So far as the other two workmen are concerned there being no evidence worth-the-name to hold them guilty of any of the charges levelled against them I do not accept the finding of the Enquiry Officer and according to me his findings are not justified on the evidence on record. These two workmen are therefore, entitled to reinstatement with full back wages with effect from the date of their dismissal provided they report for duty within one month from the date of publication of the award. The reference is answered accordingly. There will be no order for cost.

B. K. RAY, Presiding Officer.
[No. I-20025/25/80-D IIIA]
A. V. SARMA, Desk Officer.

संक्षिप्त

नई दिल्ली, 31 दिसम्बर, 1981.

कां० भा० 164.—भारत के राजपत्र, प्रकाशरण, भाग 2, खंड 3, उपखंड (ii) तारीख 13 अगस्त, 1981 में पृष्ठ 1097-1099 पर प्रकाशित भारत सरकार के श्रम मंत्रालय की अधिसूचना सं० कां० भा० 649 (अ) तारीख 13 अगस्त, 1981 में पृष्ठ 1099 पर, "(3) कर्मचारियों के प्रतिनिधि" शीर्षक के नीचे श्रम संख्यांक 11 के मामले "श्री रामचंद्र कृष्ण" के स्थान पर "श्री रामचंद्र कृष्ण" पढ़ें।

[एस-32023/2/74-उत्तर सी(एम उद्देश्य)
के० के० साहा, श्रम सचिव]

CORRIGENDUM

New Delhi, the 31st December, 1981

S.O. 164.—In the notification of the Government of India in the Ministry of Labour number S.O. 649(E) dated the 13th August, 1981, published in Part II, Section 3, Sub-section (ii) at pages 1099-1100 of the Gazette of India, Extraordinary dated the 13th August, 1981, in page 1100, under the heading "(III) Employees' representatives", against serial number 11, for 'Shri Amarendra Kundu', read 'Shri Samarendra Kundu'.

[S-32023/2/74-WC(MW)]
K. K. HANDA, Under Secy.

नई दिल्ली, 4 जनवरी, 1982

क्र० प्र० 165 —केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के अन्तर्गत धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मार्गेरिता वर्कशॉप, नार्थ ईस्टर्न कोलफील्ड्स, कोल इंडिया लिमिटेड, मार्गेरिता, असम के नियमित कर्मचारियों को उक्त अधिनियम के प्रवर्तन में 21 दिसम्बर, 1975 से 30 सितम्बर, 1982 तक जिसमें यह बिना भी सम्मिलित है, की अवधि के लिए छूट देती है।

2 पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात् —

- (1) पूर्वोक्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और अवधिमान दिखाए जायेंगे,
- (2) इस छूट के होने हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी अनुविधाएँ प्राप्त करते रहेंगे, जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व/संदर्भ अधिवासों के आदेश पर हकदार हो जायें,
- (3) छूट प्राप्त अवधि के लिए यदि कोई अधिदाय पहले ही किए जा चुके हों तो वे वापिस नहीं किए जायेंगे,
- (4) उक्त कारखाने का नियोजन, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसमें इसमें इसके पश्चात् "उक्त अवधि" कहा गया है), ऐसी विवरणियाँ ऐसे प्रत्येक में और ऐसी विनिश्चितता नष्टित नैसा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी थी,
- (5) नियम द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या नियम का इस निमित्त प्राधिकृत कोई अन्य पदधारी,—

- (1) धारा 41 की उपधारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरणी की विनिश्चितता को मर्यापित करने के प्रयोजनार्थ, या
- (2) यह अधिनियमित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अधिलेख उक्त अवधि के लिए रखे गए थे या नहीं, या
- (3) यह अधिनियमित करने के प्रयोजनार्थ कि कर्मचारी नियोजक द्वारा दिए गए उन फायदों को, जिसके अधिकार-स्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, भुगतान और वस्तु रूप में पाने का हकदार क्या हुआ है या नहीं, या
- (4) यह अधिनियमित करने के प्रयोजनार्थ कि उस अवधि के दौरान जब उक्त कारखाने के संबंध में अधिनियम के

उपबन्ध प्रकृष्ट थे, ऐसे किसी उपबंधों का अनुपालन किया गया था या नहीं

निम्नलिखित कार्य करने के लिए मशवत होगा,—

- (क) प्रधान या अव्यवहित नियोजक से अपेक्षा करना कि वह उसे ऐसे जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है या
- (ख) ऐसे प्रधान या अव्यवहित नियोजक के अधिकारधीन किसी कारखाने स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करके और उसके प्रधानी व्यक्ति से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संबंध से संबंधित ऐसे लेखा, दृष्टिकोण और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे, या उनके ऐसी जानकारी दे जिसे वे आवश्यक समझते हैं, या
- (ग) प्रधान या अव्यवहित नियोजक की, उसके अधिकारी या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना, या
- (घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज का सकल तैयार करना या उसे उद्धरण लेना।

आवश्यकतापूर

इस सम्बन्ध में पूर्वोक्त प्रभाव से छूट देनी आवश्यक हो गई है, क्योंकि छूट के लिए आवश्यक पत्र देर से प्राप्त हुआ। तथापि प्रमाणित किया जाता है कि पूर्वोक्त प्रभाव से छूट देने में किसी के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

[स० एन-38014/3/81-एन० प्र० 165]

धारा ० के० दाम, प्रवर मन्त्रि

New Delhi, the 4th January, 1982

S.O. 165.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of Margherita Workshop, North Eastern Coalfields, Coal India Limited, Margherita, Assam from the operation of the said Act for a period with effect from 21st December, 1975 upto and inclusive of the 30th September, 1982.

The above exemption is subject to the following conditions, namely :—

- (1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as

were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purposes of—

- (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory
- be empowered to—
- (a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or
 - (b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found incharge thereof to produce to such Inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case, as the application for exemption was received late. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

[No. S-38014/181-HI]

R. K. DAS Under Secy

New Delhi, the 8th January, 1982

S.O. 166.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur in the industrial dispute between the employers in relation to the management of Ispat Limestone Quarries Satna (M.P.) and their workmen, which was received by the Central Government

BEFORE JUSTICE SHRI S. R. VYAS (RETD.) PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM—LABOUR COURT, JABALPUR (M.P.)
Case No. CGIT/LC(R)(8)/1981.

PARTIES :

Management of Ispat Limestone Quarries, Satna (M.P.)
Versus

S/Shri Balwant Singh, Helper and B. Tiwari Charge-man, Ispat Limestone Quarry, Babupur Satna represented through the Ispat Shramik Sangh, I.L.Q. Babupur, Satna

APPEARANCES :

For Workmen.—None.

For Management—Shri H. R. Tal, Labour Welfare Officer.

INDUSTRY : Limestone DISTRICT : Satna (M.P.)

AWARD

Dated : December 28, 1981.

The dispute referred to this Tribunal relates to the transfer of Sarvashri B. Tiwari Chargeman and Balwant Singh Helper from the Ispat Limestone Quarries Babupur Satna to Baraduar and Kalta respectively by the management of the Rourkela Steel Plant of Steel Authority of India, Rourkela. The Government of India in the Ministry of Labour referred the following dispute to this Tribunal, for adjudication, vide Notification No. L-29011(42)/80-D.III(B) dated 6.2.1981—

"Whether the transfer of S/Shri B. Tiwari, Chargeman and Balwant Singh, Helper from Ispat Limestone Quarry, Babupur, Satna to Baraduar and Kalta, respectively is justified? If not, to what relief the employees are entitled?"

2 After notices were issued to both the parties they have filed their respective statements of demands. On behalf of the workman statement was filed by the President of the Ispat Shramik Sangh, Satna and on behalf of the management by the Chief Engineer of the Ores Mines and Quarries Department of the Steel Authority of India at the Rourkela Steel Plant, Rourkela. Rejoinder was filed by the management and not by the workmen even though they were asked to file the same.

3 The case of the workman was that Shri B. Tiwari was employed as a Chargeman in the Babupur Quarry and as Vice President of the Workers Union he was taking active interest for the protection of the interests of the workmen in general and had been agitating against some unfair treatment given to the workers. The workman, Shri Balwant Singh was employed as Helper. Both these workmen were transferred to Baraduar and Kalta with a view to suppress the trade union activities carried on by the workmen and also as an act of victimisation and unfair labour practices.

4. The management relying upon Clause 23 of the Certified Standing Orders for the Ispat Limestone Quarries, Satna, urged that it was in the exercise of the absolute authority with the management that these workmen were transferred due to exigencies of work from one place to other. The service conditions of the workmen, according to the management, remained unaffected.

5. Before the case became ripe for filing of documents, framing of issues and recording of evidence joint applications were received signed by both the parties indicating that there has been a settlement between the parties and both the workmen prayed for the withdrawal of the dispute. In view of these applications both the parties were directed to file a settlement so that an award could be passed on its basis. On 17-8-1981 time was taken by the parties. Subsequently on the adjourned date i.e. 30-9-1981 neither the workmen nor any union representative appeared

and the representative of the management filed an application signed by the workmen Shri Balwant Singh. A similar application was earlier sent by post signed by both the parties. Both the parties were directed to remain present on 1-12-1981 but none appeared. In these circumstances, the case was reserved for passing of an award.

6. It appears that the main dispute between the parties was with regard to the transfer of the two workmen from one place to other places i.e. Babupur to Baraduar and Kalta. While the dispute remained pending and was referred to this Tribunal for adjudication, the parties appear to have come to certain settlement by which both the workmen were transferred to some other places. It was precisely for this reason that the parties did not take any further interest in the adjudication proceedings pending before this Tribunal. Since an award has to be given for the dispute referred to this Tribunal I will consider the question of justification or otherwise of the transfer orders passed by the management in respect of the two workmen viz Shri B. Tiwari Chageman and Shri Balwant Singh Helper

7. No doubt in their statement of demands both the workmen have alleged victimisation, unfair labour practice, prejudice on account of trade union activities and have made other similar allegations against the management, but the contention of the management is that the transfers were made due to the exigencies of work and in exercise of the management's powers under Order No. 23 of the Certified Standing Orders. The workmen do not appear to have been inclined to join issues with the management on the statement of demands made by the management. There can be no doubt that the management had the power to

transfer a workman from one place to other without affecting the service conditions and if the management thought that transfer of these two workmen was expedient for the better working of the industry, then the workmen should have come forward and led evidence to show that the transfers were not bonafide but were because of prejudice on the part of the management for the trade union activities. Instead of proving their allegations, the workmen appear to have settled the dispute with the management and the management also issued fresh transfer orders of the workmen to places regarding which the workmen do not appear to have any grievance. In these circumstances, considering the material on record, the pleadings of the parties and the two joint applications made by both the parties the only conclusion that can be drawn is that the management of the Ispat Limestone Quarry, Babupur, Satna was justified in transferring the two workmen S/Shri B. Tiwari Chageman and Balwant Singh to Baraduar and Kalta respectively.

8. According for the reasons given above the reference is answered in terms of the following award :—

The management of the Ispat Limestone Quarry, Babupur, Satna was justified in transferring S/Shri B. Tiwari, Chageman and Balwant Singh, Helper from Babupur to Baraduar and Kalta respectively.

In the circumstances, of the case I will leave both the parties to bear their own costs as incurred.

S. R. VYAS, Presiding Officer

[No. I-29011(42)]80-D-III.B]

SHASHI BHUSHAN, Under Secy

